[redacted]

SUPREME COURT OF THE UNITED STATES

[redacted]

No. 714.

EUGENE V. DEBS, PLAINTIFF IN ERROR,

vs.

THE UNITED STATES OF AMERICA.

IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF OHIO.

FILED NOVEMBER 14, 1918.

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OCTOBER TERM, 1918.

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1 Supreme Court of United States.

No. —.

EUGENE V. DEBS, Plaintiff in Error,

vs.

THE UNITED STATES OF AMERICA, Defendant in Error.

Criminal. No. 4057.

Error from United States District Court, Northern District of Ohio, Eastern Division.

TRANSCRIPT OF RECORD.

Seymour Stedman, Chicago, Illinois;
William A. Cunnea, Chicago, Illinois;
Joseph W. Sharts, Dayton, Ohio;
Morris H. Wolf, American Trust Bldg., Cleveland, O., Attorneys for Plaintiff in Error.
E. S. Wertz, U. S. Attorney, Federal Bldg., Cleveland, Ohio, Attorney for Defendant in Error.

2 THE UNITED STATES OF AMERICA,
Northern District of Ohio, ss:

At a Stated Term of the District Court of the United States, within and for the Northern District of Ohio, begun and held at the City of Cleveland, in said District, on the first Tuesday in April, being the 2nd day of said month, in the year of our Lord one thousand nine hundred and eighteen and of the Independence of the United States of America the 142nd.

Present: Honorable D. C. Westenhaver, United States District Judge.

Among the proceedings then and there had were the following to wit:

No. 4057. Criminal.

THE UNITED STATES OF AMERICA

vs.

EUGENE V. DEBS.

Be it remembered that heretofore, to-wit: on the 29th day of June, A. D. 1918, came a Grand Jury of the United States, to wit: David

Arnold, John Cutter, H. H. Darling, William E. Diehm, Ma
Dluznski, Joseph Durr, Henry A. Gerrow, U. R. Henry, William
Hornsby, Otto C. Juergens, Daniel D. Kirby, W. F. Kirk, Geo.
Kline, Max Kramer, Henry Mackenzie, Peter Mengert, Robert
Morrison, Charles Osborn, H. P. Paisley, Harry C. Rowe, Wesl
Stillwagon, W. H. Worst which said Grand Jury returned an Indi
ment, endorsed "A True Bill W. H. Worst, Foreman of Gra
Jury", which Indictment is in the words and figures following, to-wi

3 THE UNITED STATES OF AMERICA:

No. 4057.

NORTHERN DISTRICT OF OHIO,
Eastern Division, ss:

In the District Court of the United States, Within and for t
Division and District aforesaid, at the April Term of said Cou
in the Year of Our Lord One Thousand Nine Hundred a
Eighteen.

The Grand Jurors of the United States of America, duly i
panelled, sworn and charged to inquire of crimes and offenses with
and for the body of the Eastern Division of the Northern Distri
of Ohio, upon their oaths present and fi
Sec. 3, Title 1, Act of June 15, 1917, as amended by Act of May 16, 1918, (Espionage).
that Eugene V. Debs, hereinafter des
nated the defendant, late of the Divisi
and District aforesaid, heretofore, tow
on or about the 16th day of June, 191
at the City of Canton, County of Sta
in the State of Ohio, in the Division a
District aforesaid, and within the jurisdiction of this court; t
United States of America being then and there at war with the I
perial German Government pursuant to a joint resolution of t
Congress of the United States, theretofore adopted, and which re
lution was approved by the President of the United States on the 6
day of April, A. D., 1917, did then and there unlawfully, wilful
and feloniously make and convey certain false reports and fa
statements, with intent on his part, the said defendant, to promo
the success of the enemy of the United States so at war as aforesa
that is to say, the Imperial German Government, towit, that he t
said defendant, did then and there wilfully, unlawfully and fe
niously make and utter certain false reports and false statements
a public speech and address to a certain assembly of people, amo
whom were Clyde R. Miller, Dennis R. Smith, A. P. Owen, a
Virgil Steiner, citizens of the United States of America, and div
other persons whose names are to the Grand Jurors unknow
4 and if known, are too numerous to mention herein, and
that reason are omitted.

The said false reports and false statements were made and co
veyed with the intent to promote the success of the enemy so at w

with the United States of America as aforesaid, and were in the words and substance as follows:

"Comrades, Friends and Fellow-Workers:—

"For this very cordial greeting, this very hearty reception, I thank you all with the fullest appreciation of your interest in your devotion to the cause of which I am to speak to you this afternoon. To speak for labor, to plead the cause of the men and women and children who toil, to serve the working class, has always been to me a high privilege, a duty of love.

"I have just returned from a visit from yonder (pointing to workhouse) where three of our most loyal comrades are paying the penalty for their devotion to the cause of the working class. They have come to realize, as many of us have, that it is extremely dangerous to exercise the constitutional right of free speech in a country fighting to make democracy safe for the world. I realize in speaking to you this afternoon that there are certain limitations placed upon the right of free speech. I must be extremely careful, prudent, as to what I say, and even more careful and prudent as to how I say it. I may not be able to say all I think, but I am not going to say anything that I do not think. And I would rather a thousand times be a free soul in jail than a sycophant or coward on the streets. They may put those boys in jail and some of the rest of us in jail, but they cannot put the Socialist movement in jail. Those prison bars separate their bodies from ours, but their souls are here this afternoon. They are simply paying the penalty that all men have paid in all of the ages of history for standing erect and seeking to pave the way for better conditions for mankind.

"If it had not been for the men and women who, in the past, have had the moral courage to go to jail, we would still be in the jungles.

"This assembly is exceedingly good to look upon. I wish it were possible to give you what you are giving me this afternoon. What I say here amounts to but little. What I see here is exceedingly important. You workers here in Ohio, enlisted in the greatest cause ever organized in the interests of your class, are making history today in the face of threatening trouble of all kinds, history that is going to be read with profound interest by the coming generation. There is but one thing that you have to be concerned about, and that is that you keep four-square with the principles of the international Socialistic movement. It is only when you begin to compromise that trouble begins. So far as I am concerned, it does not matter what others may say or think or do, as long as I am sure that I am right with myself and the cause.

"There are so many who seek refuge in the popular side of a great question. I am not of that number. As a Socialist I have long since learned how to stand alone.

"For the last month I have been traveling over the Hoosier state, and let me say that in all my connections with the Socialist movement, I have never seen such enthusiasm, such unity of movement,

such a promising outlook as there is today. Notwithstanding th
statement published by the capitalist press that our leaders had de
serted, I wish to say for myself I never had very much faith in
leaders anyway. I am willing to be charged with almost anythin
rather than be charged with being a leader. I am suspicious o
leaders, especially all the intellectual file. Give me the rank and fil
every day in the week. Go to the City of Washington and consul
the files there and you will find that the corporation lawyers, mem
bers of congress and misrepresentatives of the masses—all of them
claim that they have risen from the ranks. I am so glad that
cannot make that claim for myself. When I rise, it will b
with the ranks and not from the ranks.

"When I came away from Indiana, the comrades said
'When you cross the line, tell those comrades that we are on dut
and doing duty and are going to make a record this fall that wil
be heard around the world.'

"The Socialists of Ohio are very much alive this year. The part
has been 'killed' this year, which accounts for its extraordinary activ
ity. This naturally helps a party. The oftener it is killed, the mor
energetic and more powerful they become. We have been readin
capitalist newspapers lately, and what a capacity they have for lying
They know all about the Socialist party except what is true. Onl
the other day, they took an article that I had written and most o
you have read, and made it appear that I had undergone a marve
ous transformation. I had suddenly come to my senses, had ceas
to be a wicked Socialist and had become a respectable Socialist,
patriotic Socialist—as if I had ever been anything else. What wa
the purpose of this deliberate misrepresentation? It is so self-ev
dent that it was against itself. It was to sow dissatisfaction amon
our ranks, so that we would pit ourselves against each other to ou
mutual undoing. But Socialists were not born yesterday. The
know how to read capitalists' newspapers, and to believe exactly th
opposite of what they read.

"Why should a Socialist be discouraged on the eve of the greate
triumph of all the history of the Socialist movement? It is true tha
these are anxious, trying days for us all, testing those who are up
holding the banner of the working class in the greatest struggle th
world has ever known against the exploiters of the world; a time i
which the weak, the cowardly, will falter and fail and desert. The
lack the fibre to endure the revolutionary test. They fall awa
They disappear as if they had never been.

"On the other hand, they who are animated with the unconque
able spirit of the Social revolution, they who have the moral courag
to stand erect, to assert their convictions, to stand by them, to go t
jail or to hell for them—they are writing their names in this cruci
hour, they are writing their names in fadeless letters in the histor
of mankind. Those boys over yonder, those comrades of ours—ar
how I love them—aye, they are our younger brothers, their nam
are seared in our souls.

"I am proud of them. They are there for us and we are for ther
Their lips, though temporarily mute, are more eloquent than ev

before, and their voices, though silent, are heard around the world.

"Are we opposed to Prussian militarism? Why, we have been fighting it since the day the Socialist movement was born and we are going to continue to fight it today and until it is wiped from the face of the earth. Between us there is no truce, no compromise, but before I proceed along this line, let me recall a little history in which we are all interested.

"In 1869, that grand old warrior of the Socialist revolution, the elder Liebknecht, was arrested and sent to prison for three months because of his war as a Socialist on the Kaiser and the Junkers that ruled Germany. In the meantime, the Franco-Prussian war broke out. Liebknecht and Badel were the Socialist members of the Reichstag. They were the only two to protest against the taking of Alsace-Lorraine from France and giving it to Germany. They were taken from the Reichstag and sent to prison for two years. For four years previous to this, they had been fighting the Kaiser and the Junkers of Germany. They have fought them from that day to this. Thousands of them have languished in the prisons for war on the ruling classes of that country.

"Let us come down the line. At the close of Roosevelt's second term as President, he went over to Africa to make war on some of his ancestors. You remember at the close of his expedition, he visited all of the capitals of Europe and he was wined, dined, dignified and glorified by the Kaiser, kings and czars of the old world. He visited Potsdam while the Kaiser was there and, according to the account published in the American newspapers, he and the Kaiser were soon on the most intimate terms. They were hilariously intimate with each other. They slapped each other on the back. After Roosevelt had effused over the German troops, he remarked to the Kaiser, 'If I had that kind of an army, I would conquer the world.' He knew the Kaiser as well as he knows him now and yet he permitted himself to be entertained by the Beast of Berlin. He was cheek by jowl with the Beast of Berlin. And while he was being entertained by the Beast of Berlin, that same Kaiser was putting Socialist leaders in jail for fighting Kaiserism. Roosevelt was a guest of honor of the Kaiser while the Socialists were in the jail for fighting the Kaiser. Who was fighting against the Kaiser? Roosevelt? No. It was the Socialists.

"When the newspapers reported that Kaiser Wilhelm and Ex-President Theodore Roosevelt recognized each other at sight, at the first touch, they make admission that they are fatal to the champions of democracy. They admitted that their ideas and ideals were about the same. While Theodore Roosevelt, who is now the great champion of democracy, the arch foe of autocracy, what business had he as the guest of honor of the Kaiser and was it not pretty strong proof that he was a Kaiser at heart? After being the guest of the Kaiser, he wants us to send 10,000,000 men to murder the Kaiser, to murder his former friend and pal. And yet he is the patriot and we are the traitors. I challenge you to find any Socialist who was ever the guest of the Kaiser, except as one of his prison wards.

"In 1902, Prince Henry paid a visit to this country. Do you remember him? I do. Exceedingly well. Prince Henry is the brother of King Wilhelm. He is an autocrat; an aristocrat; a Junker of Junkers. He came over in 1902 as the representative of Kaiser Wilhelm. He was received by Congress, by several State legislatures, among others the State legislature of Massachusetts, then in session. He was invited there by the members of the legislature. And when Prince Henry came there, there was one member who kept his self-respect, put on his hat, and as Prince Henry walked in, he walked out, and that man was James F. Carey, and all the rest of the representatives joined in doing honor in the most servile spirit to that high representative of autocracy, and Carey was the only one who left that meeting.

"You will remember history along the same line. I have a distinct recollection. It occurred just 15 years ago. When Prince Henry came here, all of our plutocracy, living along Fifth Avenue, threw their places' doors wide open and received him with open arms. They got down on their stomachs and vied with each other to lick the boots of Prince Henry, the representative of the Beast of Berlin.

"Do not imagine for one moment that all the plutocrats and Junkers are all in Germany; we have them here in our own country, and these want to keep our eyes focused upon the Junkers in Germany so we won't see those within our own border. I have no earthly use for the Junkers of Germany and not one particle more use for the Junkers in the United States.

8 "They tell us that we live in a great republic. Our institutions are democratic. We are a free people. This is too much, even as a joke. It is not a subject for levity; it is an exceedingly serious matter.

"To whom do the Wall Street Junkers in our country, to whom do they marry their daughters? After they have wrung the hundreds of millions from your sweat and from you- life blood, in times of war as well as peace, they invest these millions in the titles of broken-down aristocrats, and to buy counts of no-account. Are they satisfied to wed their daughters to honest workmen? To real democrats? They scour the markets of Europe for those who have titles and nothing else, and they swap their titles for money. And they swap their matrimony for more money, while the plutocrats in this country scan the country with their magnifying glasses for evidence of disloyalty. Patriotism is the last refuge of scoundrels. It has been the tyrant who wrapped himself in a cloak of religion or patriotism, or both. They would have you believe that the Socialist party consists in the main of disloyalists and traitors. It is true, in a certain sense. We are disloyalists and traitors to the real traitors of this nation. And the gang on the Pacific coast are trying to hang Tom Mooney in spite of the protests of the civilized world.

"I know Tom Mooney. He is an absolutely honest, innocent man. He had no more to do with the crime with which he was charged than I have and if he ought to go to the gallows, so ought I. What is he guilty of? I will tell you. For years he has been fighting the battles of the working class out on the Pacific coast. He continued

loyally in the service of the working class. They said, 'He cannot be bought; he refuses to be bribed. Therefore, he must be murdered.'

"Let us review another bit of history. Do you remember when Francis J. Heney was shot down in the court-rooms of San Francisco? A committee of high-binders, composed largely of members of the Chamber of Commerce, absolutely controlled the courts of San Francisco. They did not hesitate to commit murder to further their murderous regime. Tom Mooney was the only representative of the working class that they could not control. They owned the railways; they controlled the industries; they were the rulers and from them there was no appeal. And they were as infamous as any rulers that ruled in Germany or any other country. At last a grand jury was found that would indict them, and Francis J. Heney, who had been selected by the National Administration to assist in the prosecution, this same gang controlled by the Chamber of Commerce, this gang hired a murderer to shoot Francis J. Heney down in the court-room and he did. Francis J. Heney happened to live, but that was no fault of theirs. The same gang are also for the execution of Tom Mooney. Every solitary one of them claims to be an arch-patriot. Everyone of them claims he is trying to make democracy safe in this world. What humbug! What rot! What false pretence! The patriots are the men who have the courage to stand face to face and fight them, and they call them disloyalists and traitors, and if this be true, I want to take my place side by side with the traitors in this country.

"Why, the other day they sent a woman to Wichita penitentiary for ten years. Just think of sentencing a woman to the penitentiary for talking. The United States under the rule of the plutocrats is the only country which would send a woman to the penitentiary for ten years for exercising the right to free speech. If this be treason, let them make the most of it. Let me review another bit of history. I have known this woman for ten years. Personally I know her as if she were my own younger sister. She is a woman of absolute integrity. She is a woman of courage. She is a woman of unimpeachable loyalty to the Socialist movement. She went out into Dakota and made her speech, followed by plain-clothes men in the service of the government, intent upon encompassing her arrest, prosecution and conviction. She made a certain speech and that speech was deliberately misrepresented for the purpose of securing her conviction. The only testimony was that of a hired witness. And thirty farmers who went to Bismarck to testify in her favor, the judge refused to allow to testify. This would seem incredible to me if I had not some experience of my own with a Federal court. Who appoints the Federal courts? The people? Every solitary one of them holds his position through influence and power of corporation capital. And when they go to the bench, they go there not to serve the people, but to serve the interests who sent them. The other day, by a vote of five to four, they declared the Child Labor Law unconstitutional; a law secured after twenty years of education and agitation by all kinds of people, and yet by a ma-

jority of one, the Supreme Court, a body of corporation lawyers, with just one solitary exception, wiped it from the Statute books, so that we may still continue to grind the blood of little children into profit for the Junkers of Wall Street, and this in a country that is now fighting to make democracy safe for the world. These are not palatable truths to them. And they do not want you to hear them and that is why they brand us as traitors and disloyalists. If we were not traitors to the people, we would be eminently respectable citizens and ride in limousines. It is precisely because we are disloyal to the traitors that we are not disloyal to the people of this country.

"You have heard of Scott Nearing. He is the greatest teacher in the United States. He was in the University of Pennsylvania until the Board of Trustees, composed of great capitalists, found he was teaching true economics to the students of that university, as the same forces said of a Judean carpenter nineteen centuries ago. They said of Jesus Christ, who was a workman and teacher, they said, 'He is preaching a false religion,' and his lineal descendants said, 'He is preaching economics.' 'We cannot crucify him so we will starve him to death. We will make it impossible for him to get a job. He is a dangerous man. He is teaching the truth.' The truth is always unpalatable to these plutocrats, who make their living by the sweat of the working class.

"They are afraid that we might contaminate you. You are their wards. They are their own guardians. They must see that our vicious doctrines do not reach your ears. What a mistake they make. We ought to pass a resolution of thanks and send it to them. Those are the people who want to seize our paper. And woe to the man who reads Socialist literature. He is a goner. I have known of a thousand experiments but I have never known of a single experiment to escape it. Let me tell you about John Werk, of Milwaukee. The capitalists of Milwaukee said, 'John, we have got to find out about Socialism. John, you are a bright, young lawyer; we want you to find out all about Socialist literature.' After reading the Socialist volume, John was a full-fledged Socialist and has been fighting for us ever since.

"How short-sighted the ruling class is. The exploiter cannot see beyond the end of his nose. He has just cunning enough to know what graft is and where it is but he has no vision. You know this is a great throbbing world that spreads out in all directions. Look at Rockefeller. Every move he makes hastens the coming of his doom. Every time the capitalist class tries to hinder the cause of Socialism they hurt themselves. Every time they strangle a Socialist newspaper they add a thousand voices to those which are aiding Socialism. The Socialist has a great idea. An expanding philosophy. It is spreading over the face of the earth. It is useless to resist it as it is to resist the rising sunrise. Can you see it? If you cannot you are lacking in vision, in understanding. What a privilege it is to serve it. I have regretted a thousand times I can do so little for the movement that has done so much for me. The little that I am, the little that I am hoping to be, is due wholly to the Socialist movement. It gave me my ideas and my ideals, and

I would not exchange one of them for all the Rockefeller blood-stained dollars. It taught me how to serve; a lesson to me of priceless value. It taught the ecstasy of the hand-clasp of the comrade. It made it possible for me to get in touch with you, to multiply myself over and over again; to open the avenue to spread out the glorious vistas; to know that I am kin with all that throbs, that becomes class conscious. Every man who toils, everyone of them, is my comrade. To serve them is the highest duty of my life. And in their service I can feel myself expanding. I rise to the stature of a man. Yes, my heart is attuned to yours. All of our hearts are melted into one great heart which throbs to the response of the people.

"Here I hear your heart beats responsive to the Bolsheviki of Russia. (Applause.) Yes, those heroic men and women, those unconquerable comrades, who have by their sacrifice added fresh lustre to the international movement. Those Russian comrades who have made greater sacrifices, who have suffered more, who have shed more heroic blood than any like number of men and women anywhere else on earth. They have led the first real convention of any democracy that ever drew breath. The first act of that memorable revolution was to proclaim a state of peace with an appeal not to the kings, not to the rulers, but an appeal to the people of all nations. They are the very breath of democracy; the quintessence of freedom. They made their appeal to the people of all nations, the Allies as well as the Central Powers, to send representatives to lay down terms of peace that should be lasting. Here was a fine opportunity to strike a blow to make democracy safe to the world. Was there any response to that noble appeal? And here let me say that appeal will be written in letters of gold in the history of the world. While it has been charged that the leader made a traitorous peace with Germany, let us consider this proposition briefly. At the time of the revolution, Russia had lost 4,000,000 of her soldiers. She was absolutely bankrupt. Her soldiers were without arms. This was what was bequeathed to the revolution by the Czar. For this condition, Leon Trotski was not responsible nor was the Bolshevik movement, but the czar was.

"When Leon Trotski came into power, he found the secret treaties made between the French government and the British government and the Italian government which was to divide the territory of the Central Powers if the Allies were victorious, and these secret treaties have not been repudiated up to this time. Very little has been said about them in the American newspapers. This shows that the purpose of the Allies is exactly the purpose of the Central Powers.

"Wars have been waged for conquests, for plunder, and since the feudal ages along the Rhine, the feudal lords made war upon each other. They wanted to enlarge their domains, to increase their power and their wealth and so they declared war upon each other. But they did not go to war any more than the Wall Street Junkers go to war. Their predecessors declared the wars, but their miserable serfs fought the wars. The serfs believed that it was their patriotic

duty to fall upon one another, to wage war upon one another. And that is war in a nutshell. The master class has always brought a war and the subject class has fought the battle. The master class has had all to gain and nothing to loose, and the subject class has all to lose and nothing to gain. They have always taught you that it is your patriotic duty to go to war and slaughter yourselves at their command. You have never had a voice in the war. The working class who make the sacrifices, who shed the blood, have never yet had a voice in declaring war. The ruling class has always made the war and made the peace.

"Yours not to question why,
Yours but to do and die.

"Another bit of history I want to review is that of Rose Pastor Stokes, another inspiring comrade. She had her millions of dollars. Her devotion to the cause is without all consideration of a financial or economic view. She went out to render service to the cause and they sent her to the penitentiary for ten years. What has she said? Nothing more than I have said here this afternoon. I want to say that if Rose Pastor Stokes is guilty, so am I. If she should be sent to the penitentiary for ten years, so ought I. What did she say? She said that a government could not serve both the profiteers and the employees of the profiteers. Roosevelt has said a thousand times more in his paper, the Kansas City Star. He would do everything possible to discredit Wilson's administration in order to give his party credit. The Republican and Democratic parties are all patriots this fall and they are going to combine to prevent the election of any disloyal Socialists. Do you know of any difference between them? One is in, the other is out. That is all the difference.

"Rose Pastor Stokes never said a word she did not have a right to utter, but her message opened the eyes of the people. That must be suppressed. That voice must be silenced. Her trial in a capitalist court was very farcical. What chance had she in a corporation court with a put-up jury and a corporation tool on the bench?

"If the war was over tomorrow, all the prison doors would open. They were just to silence these voices during the war, and the cases will be pending in court for months, perhaps years. The truth will make the people free and the truth must not be permitted to reach the people. The truth has always been dangerous to the rule of the rogue, to the exploiters. And every time they make an attempt (to attack Socialism) they have ten thousand voices proclaiming that Socialism must live.

(Gets a glass of water from one on the platform.)

"Thank you, comrade. How good the touch of the hand of a comrade is and a sip of water furnished by a comrade! And how good it is to look into your faces this afternoon! You are really good looking to me this afternoon, I assure you. Your tribe has increased wonderfully since I came here. You used to be so few and so far between. When you struck a place the first thing to do was to try to find a Socialist. If he happened to be the only one in town,

he now holds a place of honor in the hearts of all now living. Now you can't throw a stone in the dark without hitting a Socialist.

"I went to Warren some years ago. It happened the year President McKinley was assassinated. In common with all others, I deplored that tragic event. There is not a Socialist who would have been guilty of that crime. We do not attack individuals. We have no fight with individuals. We are capable of pitying those who hate us. We do not hate them. We know better. We would hand them a cup of water if they needed it. There is not any room in our hearts for hate, except for a system, a system in which it is impossible for one man to achieve a tremendous fortune while millions and millions struggle for the bare necessities of life. When McKinley was assassinated the ministers met at Portsmouth and passed a resolution that Debs was responsible for the death of McKinley. So all those ministers met and said I was not permitted to come into the city. I went there soon after, however.

"At Warren I was prepared to speak at the hall. I arrived in the evening and was no more than registered when I was ordered to leave the town, as I was not to be permitted to speak there. I sent word to the mayor that I would speak at Warren or I would leave Warren in a box. I went to the hall and the G. A. R. had a special meeting. In the full uniform they sat in the front seats. I went to the hall and made my speech. I told them who was responsible for the assassination. As long as there is misery, caused by robbery at the bottom, there will be assassination at the top. Well, I made the speech that night. I was back there the other day and the whole population of Warren was there to meet me.

"They who have had the courage to take their places at the front, they who have been true enough to speak the truth that is in them, who have espoused the cause of the suffering, struggling poor, who have upheld the cause of righteousness—they have made the history. They have paved the way to civilization. There are so many who remain on the popular side. They lack the fibre that endures. They are to be pitied and not treated with contempt. Those who have lived and endured that we should live on the earth today, had their bones broken on the wheel and were burned at the stake. We are under obligation to them because of what they suffered for us, and the only way we can cancel that obligation is by doing and seeking today for the interest of everyone who needs us.

"Every Socialist on the face of the earth is animated by the same principles. Everywhere they have the same noble idea, everywhere they are calling one another 'comrade', the noblest word that springs from the heart and soul of unity. The word 'comrade' is getting us into closer touch all along the battle line. They are waging the war of the working class against the ruling class of the world. They conquer difficulties; they grow stronger through them all.

"The heart of the international Socialist never beats a retreat. They are pressing forward here, there, everywhere, in all the zones that girdle this globe. These workers, these class-conscious workers, these children of honest toil are wiping out the boundary lines every-

where. They are proclaiming the glad tidings of the coming emanci
pation. Everywhere they are having their hearts attuned to the
sacred cause; everywhere they are moving toward democracy, mov
ing toward the sunrise, their faces aglow with the light of coming
day. These are the men who must guide us in the greatest crisis the
world has ever known. They are making history. They are bound
upon the emancipating of the human race.

"They have been sufficient to themselves, pressing forward toward
the heights. Do you wish to hasten the coming day? Join the So
cialist party. Do not wait for the morrow. Come now. Enrol
your name. Take your place where you belong. You cannot do
your duty by proxy. You have got to do it yourself. You will
have no occasion to blush. You will know what it is to be a man or
a woman. You will lose nothing. You will gain everything. You
are very apt to find something. You need to know that you are fit
for something better than slavery and cannon fodder. You need to
know that you are not created to work and to produce and to im
poverish yourself. You need to know that you have a soul to de
velop. You need to know that it is for you to know something about
literature and about science and about art. You need to get in
touch with your comrades. You need to become conscious of your
own interests. You need to know that as long as you are unorganized
industrially and content you will remain exactly where you are.

You will be exploited. You will have to beg for a job and
13 you will get just enough to keep you in working order. And
you will be looked down upon in contempt. If you would
be respected you will have to begin by respecting yourself. I would
not want to be in the predicament that poor fellow was in who heard
a Socialist speech the other day and thought he ought to be a So
cialist. The argument was invincible.

" 'Well, all he said was true.'

"But he finally concluded he might lose his job.

" 'I guess I can't afford to take the chance.'

"That night he slept alone. He was in trouble with his conscience.
Such men always are. A Socialist always goes to bed with his self
respect and he can look the whole face in the world (the crowd
laughs at the unconscious inversion of words) without a tremor.

"This poor fellow had a terrible dream and bounded from his bed
and said: 'My God, there is nobody in this room!' And he was abso
lutely right. No wonder he was terror-stricken. How would you
like to sleep in a room with nobody in it?

"There is a great deal of hope for our comrades, Wagenknecht,
Ruthenberg and Baker. Anybody can be nobody, but it takes a
man to be somebody. Turn your back upon that corrupt Republican
party and that still more corrupt Democratic party, the gold-dust
twins of the ruling class. Get into a minority party that fights for
a cause. Make that change. It will be the most important change
you ever made in your life. You will thank me for having made
the suggestion. It was a day of days for me. I passed from dark
ness to light.

"Great, seething, throbbing Russia was transferred from a land of seething darkness to a land of living light. There is something splendid in the prompting of the heart to be true to yourself.

"You are in the crucible today, Mr. Socialist. You are going to be tried, to what extent, no one knows. If you are of weak fibre, that weakness will be found out. We will have to bid good-bye to you. You are not of the stuff of which revolutionists are made. The intellectuals, a good many of them, are all gone. That is no loss to ourselves and no gain to others. In discussing intellectuals, let us answer this question: They have been with us for a long while. What will become of the rank and file as soon as the shepherds cease to guide us? 'You are my sheep.' In other words, you are my mutton.' They are ruled through the intellectuals in the capitalist parties. If you are in the Republican or Democratic party, you will not be called upon to think. They ride in the carriages; you tramp in the mud. The capitalist system affects to have great regard for intellect. We used to tell the capitalists sometime ago, 'The working class will rule'. We used to say, 'The people ought to own the railroads'. We advocated that twenty years ago. You have got to have brains to operate railroads—and the other day McAdoo fired all the brains. Have you noticed any change since the brains have gone? The railroads are now operated by hand.

"This determines how invaluable is the quality of capitalist brains. They have always given themselves credit for having superior brains. They have had all the brains and all the wealth. As to brain capacity, they are the most woeful people on the face of the earth. But they know how to gouge. And they do it legally, for the reason that the class which can rob on a large scale has the power to control courts.

"Among other things they tell you to cultivate war gardens. Government reports now show that 52% of the arable, tillable soil is held out of use by the profiteers. They do not allow others to cultivate it. They keep it idle, to enrich themselves. Thus, it makes their land valuable. It is not the fault of the people: it is the fault of the landlords. And while we are upon the subject, think about the landlord. The landlord is the great patriot. He is fighting to make the world safe for democracy. He it is who profits at the expense of the people under the pretense of being a great patriot. It is he whom you need to wipe from power. It is he who diminishes your health and your liberty far more than the Prussian junker on the other side of the ocean. According to their own figures, they will tell you that we will have to export more wheat for the soldiers on the other side.

"They tell you there is a coal famine. The State of Indiana, where I live, is underlaid with coal. The coal is under our feet. All that we can possibly use. The miners are ready to enter the mines. Here is the machinery ready to increase the output to any desired capacity. Aye, only three weeks ago, the officers of the United Mine Workers issued a bulletin to the Labor Department of the United States that the 600,000 coal miners of the United States at this time when they tell us of a coal famine, are not permitted to work more

than one-half time. I have seen the miners idle. In the meantime there is a scarcity of coal. They tell you to buy your coal now and they charge you three prices for it. Now, we have private ownership of the coal mines, and you ought to have if you vote for the Democratic or Republican ticket. The profiteers want a scarcity of coal. They make money out of a scarcity of coal. The operators say there are no cars and the railroads say there is no coal. And between them they defraud the people. Here is the difficulty. Here are the cars. The Socialist says, 'Take possession of the mines. Set the miners at work. Give the miner all he produces.' The miner works three hundred feet in the earth. The owner of the mine lives in New York or Vienna or Paris. He does not have to do a bit of work. He owns the tools, the machinery and the miner. And that is what you do every time you vote the Democratic or Republican ticket. Let the miner mine the coal and then he gets the full value of his toil. He can then provide himself and his wife and his children with a good home (and plenty to eat). So they continue to charge three prices for coal. If that is the thing you want, you will get it to your heart's content.

"A change is needed, a change of system from despotism to democracy, a change from slavery to freedom; a change from brutehood to brotherhood. To accomplish this you have got to organize, and to organize not along the zig-zag lines laid down by Sam Gompers who, through all of his career, has been on the side of the capitalist class. You never hear the capitalist papers speak of him except in praise. Gompers was always conservative. * * * by solving the labor situation by the aid of Elihu Root and Andy Carnegie with whom he drank wine and smoked scab cigars.

"Few men have the courage to say a decent word in favor of the I. W. W. I have. (Here several in the crowd yelled, 'So have I.')

"I have a great respect for the I. W. W. There has been a pamphlet issued called, 'The Truth about the I. W. W.' After long investigation by five men who are not Socialists: John Graham Brooks, Harvard University, Mr. Bruers, government investigator; (other names not noted).

"These men investigated the I. W. W. They have examined its doings, beginning at Bisbee, Arizona, where the officers deported five hundred. It is only necessary to label a man, 'I. W. W.' to lynch him. Just think of the state of mind for which the capitalist press is responsible.

"When Wall Street yells war, you may rest assured every pulpit in the land will yell war. The press and the pulpit have in every age and every nation been on the side of the exploiting class and the ruling class. That's why the I. W. W. is infamous.

"The I. W. W. in its career has never committed as much violence against the ruling class as the ruling class has committed against the people. The trial at Chicago is now on and they have not proven violence in a single solitary case. And yet, one hundred and twelve have been on trial for months and months without a shade of evidence. And this is all in its favor. And for this and many other reasons, the I. W. W. is fighting the fight of the bottom dog. For

the very reason that Gompers is glorified by Wall Street, Bill Haywood is despised by Wall Street. What you need is greater organization.

"In the shop is where the industrial union has its beginning. Organize. Define your capacity. Act together. And when you organize industrially you will soon learn that you can manage industry as well as operate industry. You will find that you do not have to take work from them; you give them work to do. You can dispense with them. You ought to own your own tools. Organize industrially. Make the organization complete. Unite in the Socialist party. Vote as you organize. Stand with your party. See that that party improves the working class, especially this year when the forces will clash as they have never clashed before. Take your place in the ranks. Help to inspire the weak and strengthen the faltering. Then, when we vote together we will develop the supreme power of the one class that can bring peace to the world. We will transfer the title deeds of the railroads, of the telegraphs, the mines and the mills. We will transfer them to the people. We will take possession in the name of the people. We will have industrial, social and political democracy. This change will be universal.

"And now for all of us to do our duty. The call is ringing in your ears. Do not worry over the charge of treason to your masters, but be concerned about the treason that involves yourself. This year we are going to sweep into power and in this nation and we are going to destroy capitalistic institutions and re-create them. * * * The world of capital is collapsing. We need industrial builders. We Socialists are the builders of the world that is to be. We are inviting you this afternoon. Join and it will help you.

"In due course of time we will proclaim the emancipation of the brotherhood of all mankind."

16 And the Grand Jurors further present and find that at the time and place aforesaid, when the said defendant so made and conveyed the said false reports and false statements as aforesaid, he did so wilfully, and that said false reports and false statements aforesaid, were so made and conveyed by the said defendant with the intent on his part to promote the success of the enemy of the United States so at war as aforesaid, that is to say, to promote the success of the Imperial German Government in said war; contrary to the form of the Statute of the United States in such case made and provided, and against the peace and dignity of the United States.

17 *Second Count.*

See. 3, Title 1, Act of June 15, 1917, as amended by Act of May 16, 1918. (Espionage.)

And the Grand Jurors aforesaid, upon their oaths aforesaid, do further present and find that the said Eugene V. Debs, hereinafter designated the defendant, late of the Division and District aforesaid, heretofore, towit, on or about the 16th day of June, 1918, at the City of Canton, County of Stark, in the State of Ohio, in the Division and District aforesaid, and within the jurisdiction of this court; the United States of

America being then and there at war with the Imperial Germa
ernment pursuant to a joint resolution of the Congress of the
States, theretofore adopted, and which resolution was approved
President of the United States on the 6th day of April, A. D.
did then and there unlawfully, wilfully and feloniously ma
convey certain false reports and false statements, with intent
part, the said defendant, to interfere with the operation and
of the military and naval forces of the United States, towit, t
the said defendant, did then and there wilfully, unlawful
feloniously make and utter certain false reports and false stat
in a public speech and address, at the time and place afores
a certain assembly of people, among whom were Clyde R. Mil
Dennis R. Smith, citizens of the United States of America,
tween the ages of twenty-one and thirty, inclusive, and diver
persons, part of whom were citizens of the United States, betw
ages of twenty-one and thirty, inclusive, whose names are
Grand jurors unknown, and if known, are too numerous to n
herein, and for that reason are omitted, which said false repo
false statements made and conveyed as aforesaid, at the ti
place aforesaid, to the persons aforesaid, were in words and su
as follows:

18 "Comrades, Friends and Fellow-Workers:—

"For this very cordial greeting, this very hearty re
I thank you all with the fullest appreciation of your interest
your devotion to the cause of which I am to speak to you th
noon. To speak for labor, to plead the cause of the men and
and children who toil, to serve the working class, has always
me a high privilege, a duty of love.

"I have just returned from a visit from yonder (pointing t
house) where three of our most loyal comrades are paying t
alty for their devotion to the cause of the working class. Th
come to realize, as many of us have, that it is extremely da
to exercise the constitutional right of free speech in a countr
ing to make democracy safe for the world. I realize in s
to you this afternoon that there are certain limitations plac
the right of free speech. I must be extremely careful, pru
to what I say, and even more careful and prudent as to how
I may not be able to say all I think, but I am not going to s
thing that I do not think. And I would rather a thousand t
a free soul in jail than a sycophant or coward on the streets
may put those boys in jail and some of the rest of us in
they cannot put the Socialist movement in jail. Those pri
separate their bodies from ours, but their souls are here th
noon. They are simply paying the penalty that all men ha
in all of the ages of history for standing erect and seeking
the way for better conditions for mankind.

"If it had not been for the men and women who, in t
have had the moral courage to go to jail, we would still b
jungles.

"This assembly is exceedingly good to look upon. I wish
possible to give you what you are giving me this afternoon

I say here amounts to but little. What I see here is exceedingly important. You workers here in Ohio, enlisted in the greatest cause ever organized in the interests of your class, are making history today in the face of threatening trouble of all kinds, history that is going to be read with profound interest by the coming generation. There is but one thing that you have to be concerned about and that is that you keep four-square with the principles of the international Socialistic movement. It is only when you begin to compromise that trouble begins. So far as I am concerned, it does not matter what others may say or think or do, as long as I am sure that I am right with myself and the cause.

"There are so many who seek refuge in the popular side of a great question. I am not of that number. As a Socialist I have long since learned how to stand alone.

"For the last month I have been traveling over the Hoosier state, and let me say that in all my connections with the Socialist movement, I have never seen such enthusiasm, such unity of movement such a promising outlook as there is today. Notwithstanding the statement published by the capitalist press that our leaders had deserted, I wish to say for myself I never had very much faith in leaders anyway. I am willing to be charged with almost anything rather than be charged with being a leader. I am suspicious of leaders, especially all the intellectual file. Give me the rank and file every day in the week. Go to the City of Washington and consult the files there and you will find that the corporation lawyers, members of congress and misrepresentatives of the masses—all of them claim that they have risen from the ranks. I am so glad that I cannot make that claim for myself. When I rise, it will be with the ranks and not from the ranks.

"When I came away from Indiana, the comrades said, 'When you cross the line, tell those comrades that we are on duty and doing duty and are going to make a record this fall that will be heard around the world.'

"The Socialists of Ohio are very much alive this year. The party has been 'killed' this year, which accounts for its extraordinary activity. This naturally helps a party. The oftener it is killed, the more energetic and more powerful they become. We have been reading capitalist newspapers lately, and what a capacity they have for lying. They know all about the Socialist party except what is true. Only the other day, they took an article that I had written and most of you have read, and made it appear that I had undergone a marvelous transformation. I had suddenly come to my senses, had ceased to be a wicked Socialist and had become a respectable Socialist, a patriotic Socialist—as if I had ever been anything else. What was the purpose of this deliberate misrepresentation? It is so self-evident that it was against itself. It was to sow dissatisfaction among our ranks, so that we would pit ourselves against each other to our mutual undoing. But Socialists were not born yesterday. They know how to read capitalists' newspapers, and to believe exactly the opposite of what they read.

"Why should a Socialist be discouraged on the eve of the g
triumph of all the history of the Socialist movement? It is tru
these are anxious, trying days for us all, testing those who a
holding the banner of the working class in the greatest strugg
world has ever known against the exploiters of the world: a t
which the weak, the cowardly, will falter and fail and desert.
lack the fibre to endure the revolutionary test. They fall
They disappear as if they had never been.

"On the other hand, they who are animated with the unco
able spirit of the Social revolution, they who have the moral c
to stand erect, to assert their convictions, to stand by them, t
jail or to hell for them—they are writing their names in this
hour, they are writing their names in fadeless letters in the
of mankind. Those boys over yonder, those comrades of our
how I love them—aye, they are our younger brothers, their
are seared in our souls.

"I am proud of them. They are there for us and we are fo
Their lips, though temporarily mute, are more eloquent tha
before, and their voices, though silent, are heard around the

"Are we opposed to Prussian militarism? Why, we hav
fighting it since the day the Socialist movement was born
are going to continue to fight it today and until it is wipe
the face of the earth. Between us there is no truce, no comp
but before I proceed along this line, let me recall a little his
which we are all interested.

"In 1869, that grand old warrior of the Socialist revoluti
elder Liebknecht, was arrested and sent to prison for three
because of his war as a Socialist on the Kaiser and the Junk
ruled Germany. In the meantime, the Franco-Prussian wa
out. Liebknecht and Badel were the Socialist members
Reichstag. They were the only two to protest against the ta
Alsace-Lorraine from France and giving it to Germany. Th
taken from the Reichstag and sent to prison for two years.
years previous to this, they had been fighting the Kaiser
Junkers of Germany. They have fought them fr
20 day to this. Thousands of them have languished
prisons for war on the ruling classes of that country

"Let us come down the line. At the close of Roosevelt's
term as President, he went over to Africa to make war on so
ancestors. You remember at the close of his expedition, h
all of the capitals of Europe and he was wined, dined, digni
glorified by the Kaiser, kings and czars of the old world. H
Potsdam while the Kaiser was there and, according to the
published in the American newspapers, he and the Kaiser w
on the most intimate terms. They were hilariously intim
each other. They slapped each other on the back. After
had effused over the German troops, he remarked to the K
I had that kind of an army, I would conquer the world.'
the Kaiser as well as he knows him now and yet he permit
self to be entertained by the Beast of Berlin. He was cheek
with the Beast of Berlin. And while he was being entert

the Beast of Berlin, that same Kaiser was putting Socialist leaders in jail for fighting Kaiserism. Roosevelt was a guest of honor of the Kaiser while the Socialists were in the jail for fighting the Kaiser. Who was fighting against the Kaiser? Roosevelt? No. It was the Socialists.

"When the newspapers reported that Kaiser Wilhelm and Ex-President Theodore Roosevelt recognized each other at sight, at the first touch, they make admission that they are fatal to the champions of democracy. They admitted that their ideas and ideals were about the same. While Theodore Roosevelt, who is now the great champion of democracy, the arch foe of autocracy, what business had he as the guest of honor of the Kaiser and was it not pretty strong proof that he was a Kaiser at heart? After being the guest of the Kaiser, he wants us to send 10,000,000 men to murder the Kaiser, to murder his former friend and pal. And yet he is the patriot and we are the traitors. I challenge you to find any Socialist who was ever the guest of the Kaiser, except as one of his prison wards.

"In 1902, Prince Henry paid a visit to this country. Do you remember him? I do. Exceedingly well. Prince Henry is the brother of King Wilhelm. He is an autocrat; an aristocrat; a Junker of Junkers. He came over in 1902 as the representative of Kaiser Wilhelm. He was received by Congress, by several State legislatures, among others the State legislature of Massachusetts, then in session. He was invited there by the members of the legislature. And when Prince Henry came there, there was one member who kept his self-respect, put on his hat, and as Prince Henry walked in, he walked out, and that man was James F. Carey, and all the rest of the representatives joined in doing honor in the most servile spirit to that high representative of autocracy, and Carey was the only one who left that meeting.

"You will remember history along the same line. I have a distinct recollection. It occurred just 15 years ago. When Prince Henry came here, all of our plutocracy, living along Fifth Avenue, threw their places' doors wide open and received him with open arms. They got down on their stomachs and vied with each other to lick the boots of Prince Henry, the representative of the Beast of Berlin.

"Do not imagine for one moment that all the plutocrats and Junkers are all in Germany; we have them here in our own country, and these want to keep our eyes focused upon the Junkers in Germany so we won't see those within our own border. I have no earthly use for the Junkers of Germany and not one particle more use for the Junkers in the United States.

21 "They tell us that we live in a great republic. Our institutions are democratic. We are a free people. This is too much, even as a joke. It is not a subject for levity; it is an exceedingly serious matter.

"To whom do the Wall Street Junkers in our country, to whom do they marry their daughters? After they have wrung the hundreds of millions from your sweat and from your life blood, in times of war as well as peace, they invest these millions in the titles of broken-down aristocrats, and to buy counts of no-account. Are they

satisfied to wed their daughters to honest workmen? To real democrats? They scour the markets of Europe for those who have titles and nothing else, and they swap their titles for money. And they swap their matrimony for more money, while the plutocrats in this country scan the country with their magnifying glasses for evidence of disloyalty. Patriotism is the last refuge of scoundrels. It has been the tyrant who wrapped himself in a cloak of religion or patriotism, or both. They would have you believe that the Socialist party consists in the main of disloyalists and traitors. It is true, in a certain sense. We are disloyalists and traitors to the real traitors of this nation. And the gang on the Pacific coast are trying to hang Tom Mooney in spite of the protests of the civilized world.

"I know Tom Mooney. He is an absolutely honest, innocent man. He had no more to do with the crime with which he was charged than I have and if he ought to go to the gallows, so ought I. What is he guilty of? I will tell you. For years he has been fighting the battles of the working class out on the Pacific coast. He continued loyally in the service of the working class. They said, 'He cannot be bought; he refuses to be bribed. Therefore, he must be murdered.'

"Let us review another bit of history. Do you remember when Francis J. Heney was shot down in the court-rooms of San Francisco? A committee of high-binders, composed largely of members of the Chamber of Commerce, absolutely controlled the courts of San Francisco. They did not hesitate to commit murder to further their murderous regime. Tom Mooney was the only representative of the working class that they could not control. They owned the railways; they controlled the industries; they were the rulers and from them there was no appeal. And they were as infamous as any rulers that ruled in Germany or any other country. At last a grand jury was found that would indict them, and Francis J. Heney, who had been selected by the National Administration to assist in the prosecution, this same gang controlled by the Chamber of Commerce, this gang hired a murderer to shoot Francis J. Heney down in the court-room and he did. Francis J. Heney happened to live, but that was no fault of theirs. The same gang are also for the execution of Tom Mooney. Every solitary one of them claims to be an arch-patriot. Everyone of them claims he is trying to make democracy safe in this world. What humbug! What rot! What false pretence! The patriots are the men who have the courage to stand face to face and fight them, and they call them disloyalists and traitors, and if this be true, I want to take my place side by side with the traitors in this country.

"Why, the other day they sent a woman to Wichita penitentiary for ten years. Just think of sentencing a woman to the penitentiary for talking. The United States under the rule of the plutocrats is the only country which would send a woman to the penitentiary for ten years for exercising the right to free speech. If this be treason, let them make the most of it. Let me review another bit of history. I have known this woman for ten years. Personally I know her as if she were my own younger sister. She is a woman of absolute

integrity. She is a woman of courage. She is a woman of unimpeachable loyalty to the Socialist movement. She went out
22 into Dakota and made her speech, followed by plain-clothes men in the service of the government, intent upon encompassing her arrest, prosecution and conviction. She made a certain speech and that speech was deliberately misrepresented for the purpose of securing her conviction. The only testimony was that of a hired witness. And thirty farmers who went to Bismarck to testify in her favor, the judge refused to allow to testify. This would seem incredible to me if I had not some experience of my own with a Federal court. Who appoints the Federal courts? The people? Every solitary one of them holds his position through influence and power of corporation capital. And when they go to the bench, they go there not to serve the people, but to serve the interests who sent them. The other day, by a vote of five to four, they declared the Child Labor Law unconstitutional; a law secured after twenty years of education and agitation by all kinds of people, and yet by a majority of one, the Supreme Court, a body of corporation lawyers, with just one solitary exception, wiped it from the Statute books, so that we may still continue to grind the blood of little children into profit for the Junkers of Wall Street, and this in a country that is now fighting to make democracy safe for the world. These are not palatable truths to them. And they do not want you to hear them and that is why they brand us as traitors and disloyalists. If we were not traitors to the people, we would be eminently respectable citizens and ride in limousines. It is precisely because we are disloyal to the traitors that we are not disloyal to the people of this country.

"You have heard of Scott Nearing. He is the greatest teacher in the United States. He was in the University of Pennsylvania until the Board of Trustees, composed of great capitalists, found he was teaching true economies to the students of that university as the same forces said of a Judean carpenter nineteen centuries ago. They said of Jesus Christ, who was a workman and teacher, they said, 'He is preaching a false religion,' and his lineal descendants said, 'He is preaching economics.' 'We cannot crucify him so we will starve him to death. We will make it impossible for him to get a job. He is a dangerous man. He is teaching the truth.' The truth is always unpalatable to these plutocrats, who make their living by the sweat of the working class.

"They are afraid that we might contaminate you. You are their wards. They are their own guardians. They must see that our vicious doctrines do not reach your ears. What a mistake they make. We ought to pass a resolution of thanks and send it to them. Those are the people who want to seize our paper. And woe to the man who reads Socialist literature. He is a goner. I have known of a thousand experiments but I have never known of a single experiment to escape it. Let me tell you about John Werk, of Milwaukee. The capitalists of Milwaukee said, 'John, we have got to find out about Socialism. John, you are a bright, young lawyer; we want you to find out all about Socialist literature.' After reading the Socialist

volume. John was a full-fledged Socialist and has been fighting for us ever since.

"How short-sighted the ruling class is. The exploiter cannot see beyond the end of his nose. He has just cunning enough to know what graft is and where it is but he has no vision. You know this is a great throbbing world that spreads out in all directions. Look at Rockefeller. Every move he makes hastenes the coming of his doom. Every time the capitalist class tries to hinder the cause of Socialism they hurt themselves. Every time they strangle a Socialist newspaper they add a thousand voices to those which are aiding Socialism. The Socialist has a great idea. An expanding philosophy. It is spreading over the face of the earth. It is useless to
23 resist it as it is to resist the rising sunrise. Can you see it? If you cannot you are lacking in vision, in understanding. What a privilege it is to serve it. I have regretted a thousand times I can do so little for the movement that has done so much for me. The little that I am, the little that I am hoping to be, is due wholly to the Socialist movement. It gave me my ideas and my ideals, and I would not exchange one of them for all the Rockefeller blood-stained dollars. It taught me how to serve; a lesson to me of priceless value. It taught the ecstasy of the hand-clasp of the comrade. It made it possible for me to get in touch with you, to multiply myself over and over again; to open the avenue to spread out the glorious vistas; to know that I am kin with all that throbs, that becomes class conscious. Every man who toils, everyone of them, is my comrade. To serve them is the highest duty of my life. And in their service I can feel myself expanding. I rise to the stature of a man. Yes, my heart is attuned to yours. All of our hearts are melted into one great heart which throbs to the response of the people.

"Here I hear your heart beats responsive to the Bolsheviki of Russia. (Applause.) Yes, those heroic men and women, those unconquerable comrades, who have by their sacrifice added fresh lustre to the international movement. Those Russian comrades who have made greater sacrifices, who have suffered more, who have shed more heroic blood than any like number of men and women anywhere else on earth. They have led the first real convention of any democracy that ever drew breath. The first act of that memorable revolution was to proclaim a state of peace with an appeal not to the kings, not to the rulers, but an appeal to the people of all nations. They are the very breath of democracy; the quintessence of freedom. They made their appeal to the people of all nations, the Allies as well as the Central Powers, to send representatives to lay down terms of peace that should be lasting. Here was a fine opportunity to strike a blow to make democracy safe to the world. Was there any response to that noble appeal? And here let me say that appeal will be written in letters of gold in the history of the world. While it has been charged that the leader made a traitorous peace with Germany, let us consider this proposition briefly. At the time of the revolution, Russia had lost 4,000,000 of her soldiers. She was absolutely bankrupt. Her soldiers were without arms. This was

what was bequeathed to the revolution by the Czar. For this condition, Leon Trotski was not responsible nor was the Bolshevik movement, but the czar was.

"When Leon Trotski came into power, he found the secret treaties made between the French government and the British government and the Italian government which was to divide the territory of the Central Powers if the Allies were victorious, and these secret treaties have not been repudiated up to this time. Very little has been said about them in the American newspapers. This shows that the purpose of the Allies is exactly the purpose of the Central Powers.

"Wars have been waged for conquests, for plunder, and since the feudal ages along the Rhine, the feudal lords made war upon each other. They wanted to enlarge their domains, to increase their power and their wealth and so they declared war upon each other. But they did not go to war any more than the Wall Street Junkers go to war. Their predecessors declared the wars, but their miserable serfs fought the wars. The serfs believed that it was their patriotic duty to fall upon one another, to wage war upon one another. And that is war in a nutshell. The master class has always brought a war and the subject class has fought the battle. The master class has had all to gain and nothing to lose, and the subject class
21 has all to lose and nothing to gain. They have always taught you that it is your patriotic duty to go to war and slaughter yourselves at their command. You have never had a voice in the war. The working class who make the sacrifices, who shed the blood, have never yet had a voice in declaring war. The ruling class has always made the war and made the peace.

"Yours not to question why,
Yours but to do and die.

"Another bit of history I want to review is that of Rose Pastor Stokes, another inspiring comrade. She had her millions of dollars. Her devotion to the cause is without all consideration of a financial or economic view. She went out to render service to the cause and they sent her to the penitentiary for ten years. What has she said? Nothing more than I have said here this afternoon. I want to say that if Rose Pastor Stokes is guilty, so am I. If she should be sent to the penitentiary for ten years, so ought I. What did she say? She said that a government could not serve both the profiteers and the employees of the profiteers. Roosevelt has said a thousand times more in his paper, the Kansas City Star. He would do everything possible to discredit Wilson's administration in order to give his party credit. The Republican and Democratic parties are all patriots this fall and they are going to combine to prevent the election of any disloyal Socialists. Do you know of any difference between them? One is in, the other is out. That is all the difference.

"Rose Pastor Stokes never said a word she did not have a right to utter, but her message opened the eyes of the people. That must be suppressed. That voice must be silenced. Her trial in a capitalist court was very farcical. What chance had she in a corporation court with a put-up jury and a corporation tool on the bench?

"If the war was over tomorrow, all the prison doors would open. They were just to silence these voices during the war, and the cases will be pending in court for months, perhaps years. The truth will make the people free and the truth must not be permitted to reach the people. The truth has always been dangerous to the rule of the rogue, to the exploiters. And every time they make an attempt (to attack Socialism) they have ten thousand voices proclaiming that Socialism must live.

(Gets a glass of water from one on the platform.)

"Thank you, comrade. How good the touch of the hand of a comrade is and a sip of water furnished by a comrade! And how good it is to look into your faces this afternoon! You are really good looking to me this afternoon, I assure you. Your tribe has increased wonderfully since I came here. You used to be so few and so far between. When you struck a place the first thing to do was to try to find a Socialist. If he happened to be the only one in town, he now holds a place of honor in the hearts of all now living. Now you can't throw a stone in the dark without hitting a Socialist.

"I went to Warren some years ago. It happened the year President McKinley was assassinated. In common with all others, I deplored that tragic event. There is not a Socialist who would have been guilty of that crime. We do not attack individuals. We have no fight with individuals. We are capable of pitying those who hate us. We do not hate them. We know better. We would hand them a cup of water if they needed it. There is not any room in our hearts for hate, except for a system, a system in which it is impossible for one man to achieve a tremendous fortune while millions and millions struggle for the bare necessities of life. When McKinley was assassinated the ministers met at Portsmouth and passed a resolution that Debs was responsible for the death of McKinley. So all those ministers met and said I was not permitted to come into the city. I went there soon after, however.

"At Warren I was prepared to speak at the hall. I arrived in the evening and was no more than registered when I was ordered to leave the town, as I was not to be permitted to speak there. I sent word to the mayor that I would speak at Warren or I would leave Warren in a box. I went to the hall and the G. A. R. had a special meeting. In the full uniform they sat in the front seats. I went to the hall and made my speech. I told them who was responsible for the assassination. As long as there is misery, caused by robbery at the bottom, there will be assassination at the top. Well, I made the speech that night. I was back there the other day and the whole population of Warren was there to meet me.

"They who have had the courage to take their places at the front they who have been true enough to speak the truth that is in them who have espoused the cause of the suffering, struggling poor, who have upheld the cause of righteou-ness—they have made the history. They have paved the way to civilization. There are so many who

remain on the popular side. They lack the fibre that endures. They are to be pitied and not treated with contempt. Those who have lived and endured that we should live on the earth today, had their bones broken on the wheel and were burned at the stake. We are under obligation to them because of what they suffered for us, and the only way we can cancel that obligation is by doing and seeking today for the interest of everyone who needs us.

"Every Socialist on the face of the earth is animated by the same principles. Everywhere they have the same noble idea, everywhere they are calling one another 'comrade', the noblest word that springs from the heart and soul of unity. The word 'comrade' is getting us into closer touch all along the battle line. They are waging the war of the working class against the ruling class of the world. They conquer difficulties; they grow stronger through them all.

"The heart of the international Socialist never beats a retreat. They are pressing forward here, there, everywhere, in all the zones that girdle this globe. These workers, these class-conscious workers, these children of honest toil are wiping out the boundary lines everywhere. They are proclaiming the glad tidings of the coming emancipation. Everywhere they are having their hearts attuned to the sacred cause; everywhere they are moving toward democracy, moving toward the sunrise, their faces aglow with the light of coming day. These are the men who must guide us in the greatest crisis the world has ever known. They are making history. They are bound upon the emancipating of the human race.

"They have been sufficient to themselves, pressing forward toward the heights. Do you wish to hasten the coming day? Join the Socialist party. Do not wait for the morrow. Come now. Enroll your name. Take your place where you belong. You cannot do your duty by proxy. You have got to do it yourself. You will have no occasion to blush. You will know what it is to be a man or a woman. You will lose nothing. You will gain everything. You are very apt to find something. You need to know that you are fit for something better than slavery and cannon fodder. You need to know that you are not created to work and to produce and to impoverish yourself. You need to know that you have a soul to develop. You need to know that it is for you to know something about literature and about science and about art. You need to get in touch with your comrades. You need to become conscious of your own interests. You need to know that as long as you are unorganized industrially and content you will remain exactly where you are.

You will be exploited. You will have to beg for a job and
25 you will get just enough to keep you in working order. And you will be looked down upon in contempt. If you would be respected you will have to begin by respecting yourself. I would not want to be in the predicament that poor fellow was in who heard a Socialist speech the other day and thought he ought to be a Socialist. The argument was invincible.

" 'Well, all he said was true.'

"But he finally concluded he might lose his *job*.

" 'I guess I can't afford to take the chance.'

"That night he slept alone. He was in trouble with his conscien
Such men always are. A Socialist always goes to bed with his s
respect and he can look the whole face in the world (the cr
laughs at the unconscious inversion of words) without a tremor.

"This poor fellow had a terrible dream and bounded from his
and said: 'My God, there is nobody in this room!' And he was al
lutely right. No wonder he was terror-stricken. How would
like to sleep in a room with nobody in it?

"There is a great deal of hope for our comrades, Wagenknec
Ruthenberg and Baker. Anybody can be nobody, but it take
man to be somebody. Turn your back upon that corrupt Republi
party and that still more corrupt Democratic party, the gold-d
twins of the ruling class. Get into a minority party that fights
a cause. Make that change. It will be the most important cha
you ever made in your life. You will thank me for having m
the suggestion. It was a day of days for me. I passed from da
ness to light.

"Great, seething, throbbing Russia was transferred from a l
of seething darkness to a land of living light. There is someth
splendid in the prompting of the heart to be true to yourself.

"You are in the crucible today, Mr. Socialist. You are going
be tried, to what extent, no one knows. If you are of weak fi
that weakness will be found out. We will have to bid good-by
you. You are not of the stuff of which revolutionists are ma
The intellectuals, a good many of them, are all gone. That is
loss to ourselves and no gain to others. In discussing intellectu
let us answer this question: They have been with us for a long wh
What will become of the rank and file as soon as the shepherds c
to guide us? 'You are my sheep.' In other words, you are
mutton. They are ruled through the intellectuals in the capita
parties. If you are in the Republican or Democratic party,
will not be called upon to think. They ride in the carriages;
tramp in the mud. The capitalist system affects to have great re
for intellect. We used to tell the capitalists sometime ago, "
working class will rule'. We used to say, 'The people ought to
the railroads'. We advocated that twenty years ago. You have
to have brains to operate railroads—and the other day McAdoo f
all the brains. Have you noticed any change since the brains l
gone? The railroads are now operated by hand.

"This determines how invaluable is the quality of capitalist bra
They have always given themselves credit for having superior bra
They have had all the brains and all the wealth. As to brain
pacity, they are the most woeful people on the face of the earth.
they know how to gouge. And they do it legally, for the re
that the class which can rob on a large scale has the power to
trol courts.

"Among other things they tell you to cultivate war gardens.
ernment reports now show that 52% of the arable, tillable soi
held out of use by the profiteers. They do not allow others to
tivate it. They keep it idle, to enrich themselves. Thu
27 makes their land valuable. It is not the fault of the peo
it is the fault of the landlords. And while we are upon

subject, think about the landlord. The landlord is the great patriot. He is fighting to make the world safe for democracy. He it is who profits at the expense of the people under the pretense of being a great patriot. It is he whom you need to wipe from power. It is he who diminishes your health and your liberty far more than the Prussian junker on the other side of the ocean. According to their own figures, they will tell you that we will have to export more wheat for the soldiers on the other side.

"They tell you there is a coal famine. The State of Indiana, where I live, is underlaid with coal. The coal is under our feet. All that we can possibly use. The miners are ready to enter the mines. Here is the machinery ready to increase the output to any desired capacity. Aye, only three weeks ago, the officers of the United Mine Workers issued a bulletin to the Labor Department of the United States that the 600,000 coal miners of the United States at this time when they tell us of a coal famine, are not permitted to work more than one-half time. I have seen the miners idle. In the meantime there is a scarcity of coal. They tell you to buy your coal now and they charge you three prices for it. Now, we have private ownership of the coal mines, and you ought to have if you vote for the Democratic or Republican ticket. The profiteers want a scarcity of coal. They make money out of a scarcity of coal. The operators say there are no cars and the railroads say there is no coal. And between them they defraud the people. Here is the difficulty. Here are the cars. The Socialist says, 'Take possession of the mines. Set the miners at work. Give the miner all he produces.' The miner works three hundred feet in the earth. The owner of the mine lives in New York or Vienna or Paris. He does not have to do a bit of work. He owns the tools, the machinery and the miner. And that is what you do every time you vote the Democratic or Republican ticket. Let the miner mine the coal and then he gets the full value of his toil. He can then provide himself and his wife and his children with a good home (and plenty to eat). So they continue to charge three prices for coal. If that is the thing you want, you will get it to your heart's content.

"A change is needed, a change of system from despotism to democracy, a change from slavery to freedom; a change from brutehood to brotherhood. To accomplish this you have got to organize, and to organize not along the zig-zag lines laid down by Sam Gompers who, through all of his career, has been on the side of the capitalist class. You never hear the capitalist papers speak of him except in praise. Gompers was always conservative, * * * by solving the labor situation by the aid of Elihu Root and Andy Carnegie with whom he drank wine and smoked scab cigars.

"Few men have the courage to say a decent word in favor of the I. W. W. I have. (Here several in the crowd yelled, 'So have I.')

"I have a great respect for the I. W. W. There has been a pamphlet issued called, 'The Truth about the I. W. W.' After long investigation by five men who are not Socialists: John Graham Brooks, Harvard University, Mr. Bruers, government investigator; (other names not noted).

"These men investigated the I. W. W. They have examined doings, beginning at Bisbee, Arizona, where the officers depo five hundred. It is only necessary to label a man, 'I. W. W lynch him. Just think of the state of mind for which the capit press is responsible.

"When Wall Street yells war, you may rest assured e
28 pulpit in the land will yell war. The press and the pu have in every age and every nation been on the side of exploiting class and the ruling class. That's why the I. W. W infamous.

"The I. W. W. in its career has never committed as much viol against the ruling class as the ruling class has committed aga the people. The trial at Chicago is now on and they have not pr violence in a single solitary case. And yet, one hundred and tw have been on trial for months and months without a shade of dence. And this is all in its favor. And for this and many reasons, the I. W. W. is fighting the fight of the bottom dog. the very reason that Gompers is glorified by Wall Street, Bill wood is despised by Wall Street. What you need is greater orga tion.

"In the shop is where the industrial union has its begin Organize. Define your capacity. Act together. And when organize industrially you will soon learn that you can manag dustry as well as operate industry. You will find that you d have to take work from them; you give them work to do. You dispense with them. You ought to own your own tools. Orga industrially. Make the organization complete. Unite in th cialist party. Vote as you organize. Stand with your party. that that party improves the working class, especially this year the forces will clash as they have never clashed before. Take place in the ranks. Help to inspire the weak and strengthen faltering. Then, when we vote together we will develop the sup power of the one class that can bring peace to the world. We transfer the title deeds of the railroads, of the telegraphs, the and the mills. We will transfer them to the people. We will possession in the name of the people. We will have industrial, and political democracy. This change will be universal.

"And now for all of us to do our duty. The call is ringi your ears. Do not worry over the charge of treason to your ters, but be concerned about the treason that involves yourself. year we are going to sweep into power and in this nation and w going to destroy capitalistic institutions and re-create them. * The world of capital is collapsing. We need industrial bui We Socialists are the builders of the world that is to be. We a viting you this afternoon. Join and it will help you.

"In due course of time we will proclaim the emancipation brotherhood of all mankind."

29 And the Grand Jurors further present and find that time and place aforesaid, when he, the said defend made and conveyed the said false reports and false statem

aforesaid, he did so wilfully, and that said false reports and false statements aforesaid, were so made and conveyed by the said defendant with the intent on his part to interfere with the operation and success of the military and naval forces of the United States; contrary to the form of the Statute of the United States in such case made and provided, and against the peace and dignity of the United States.

30 *Third Count.*

Sec. 3, Title 1, Act of June 15, 1917, as amended by Act of May 16, 1918 (Espionage).

And the Grand Jurors aforesaid, upon their oaths, aforesaid, do further present and find that the said Eugene V. Debs, hereinafter designated the defendant, late of the Division and District aforesaid, heretofore, towit, on or about the 16th day of June, 1918, at the City of Canton, County of Stark, in the State of Ohio, in the Division and District aforesaid, and within the jurisdiction of this court; the United States of America being then and there at war with the Imperial German Government pursuant to a joint resolution of the Congress of the United States, theretofore adopted, and which resolution was approved by the President of the United States on the 6th day of April, A. D., 1917, did then and there unlawfully, wilfully and feloniously cause and attempt to cause and incite and attempt to incite, insubordination, disloyalty, mutiny and refusal of duty, in the military and naval forces of the United States, that is to say, that he, the said defendant, did then and there, state, utter, publish and say in a public speech and address, at the time and place aforesaid, to a certain assembly of people, among whom were Clyde R. Miller and Dennis R. Smith, both of whom then and there being citizens of the United States, and then and there being between the ages of twenty-one and thirty, both inclusive, and divers others persons, part of whom were citizens of the United States, between the ages of twenty-one and thirty, both inclusive, whose names are to the Grand Jurors unknown, and if known, are too numerous to mention herein, and for that reason are omitted, which said public speech and address so stated, uttered, published and said as aforesaid, at the time and place aforesaid, and in the manner and under the circumstances afore aid, in words and substance, is as follows:

31 "Comrades, Friends and Fellow-Workers:—

"For this very cordial greeting, this very hearty reception, I thank you all with the fullest appreciation of your interest in your devotion to the cause of which I am to speak to you this afternoon. To speak for labor, to plead the cause of the men and women and children who toil, to serve the working class, has always been to me a high privilege, a duty of love.

"I have just returned from a visit from yonder (pointing to workhouse) where three of our most loyal comrades are paying the pen-

alty for their devotion to the cause of the working class. Th
come to realize, as many of us have, that it is extremely da
to exercise the constitutional right of free speech in a countr
ing to make democracy safe for the world. I realize in sp
to you this afternoon that there are certain limitations place
the right of free speech. I must be extremely careful, pru
to what I say, and even more careful and prudent as to how
I may not be able to say all I think, but I am not going to s
thing that I do not think. And I would rather a thousand t
a free soul in jail than a sycophant or coward on the streets.
may put those boys in jail and some of the rest of us in j
they cannot put the Socialist movement in jail. Those pris
separate their bodies from ours, but their souls are here thi
noon. They are simply paying the penalty that all men ha
in all of the ages of history for standing erect and seeking
the way for better conditions for mankind.

"If it had not been for the men and women who, in th
have had the moral courage to go to jail, we would still be
jungles.

"This assembly is exceedingly good to look upon. I wish
possible to give you what you are giving me this afternoon,
I say here amounts to but little. What I see here is exceedin
portant. You workers here in Ohio, enlisted in the greate
ever organized in the interests of your class, are making histor
in the face of threatening trouble of all kinds, history that i
to be read with profound interest by the coming generation.
is but one thing that you have to be concerned about, and tha
you keep four-square with the principles of the international
istic movement. It is only when you begin to compromi
trouble begins. So far as I am concerned, it does not matt
others may say or think or do, as long as I am sure that I a
with myself and the cause.

"There are so many who seek refuge in the popular side of
question. I am not of that number. As a Socialist I have lo
learned how to stand alone.

"For the last month I have been traveling over the Hoo-s
and let me say that in all my connections with the Socialis
ment, I have never seen such enthusiasm, such unity of mo
such a promising outlook as there is today. Notwithstand
statement published by the capitalist press that our leaders
serted, I wish to say for myself I never had very much
leaders anyway. I am willing to be charged with almost a
rather than be charged with being a leader. I am suspi
leaders, especially all the intellectual file. Give me the rank
every day in the week. Go to the City of Washington and
the files there and you will find that the corporation lawyer
bers of congress and misrepresentatives of the masses—all
claim that they have risen from the ranks. I am so glad
cannot make that claim for myself. When I rise, it
32 with the ranks and not from the ranks.

"When I came away from Indiana, the comrad

'When you cross the line, tell those comrades that we are on duty and doing duty and are going to make a record this fall that will be heard around the world.'

"The Socialists of Ohio are very much alive this year. The party has been 'killed' this year, which accounts for its extraordinary activity. This naturally helps a party. The oftener it is killed, the more energetic and more powerful they become. We have been reading capitalist newspapers lately, and what a capacity they have for lying. They know all about the Socialist party except what is true. Only the other day, they took an article that I had written and most of you have read, and made it appear that I had undergone a marvelous transformation. I had suddenly come to my senses, had ceased to be a wicked Socialist and had become a respectable Socialist, a patriotic Socialist—as if I had ever been anything else. What was the purpose of this deliberate misrepresentation? It is so self-evident that it was against itself. It was to sow dissatisfaction among our ranks, so that we would pit ourselves against each other to our mutual undoing. But Socialists were not born yesterday. They know how to read capitalists' newspapers, and to believe exactly the opposite of what they read.

"Why should a Socialist be discouraged on the eve of the greatest triumph of all the history of the Socialist movement? It is true that these are anxious, trying days for us all, testing those who are upholding the banner of the working class in the greatest struggle the world has ever known against the exploiters of the world; a time in which the weak, the cowardly, will falter and fail and desert. They lack the fibre to endure the revolutionary test. They fall away. They disappear as if they had never been.

"On the other hand, they who are animated with the unconquerable spirit of the Social revolution, they who have the moral courage to stand erect, to assert their convictions, to stand by them, to go to jail or to hell for them—they are writing their names in this crucial hour, they are writing their names in fadeless letters in the history of mankind. Those boys over yonder, those comrades of ours—and how I love them—aye, they are our younger brothers, their names are seared in our souls.

"I am proud of them. They are there for us and we are for them. Their lips, though temporarily mute, are more eloquent than ever before, and their voices, though silent, are heard around the world.

"Are we opposed to Prussian militarism? Why, we have been fighting it since the day the Socialist movement was born and we are going to continue to fight it today and until it is wiped from the face of the earth. Between us there is no truce, no compromise, but before I proceed along this line, let me recall a little history in which we are all interested.

"In 1869, that grand old warrior of the Socialist revolution, the elder Liebknecht, was arrested and sent to prison for three months because of his war as a Socialist on the Kaiser and the Junkers that ruled Germany. In the meantime, the Franco-Prussian war broke out. Liebknecht and Badel were the Socialist members of the Reichstag. They were the only two to protest against the taking of

Alsace-Lorraine from France and giving it to Germany. Th
taken from the Reichstag and sent to prison for two years.
years previous to this, they had been fighting the Kaiser
Junkers of Germany. They have fought them fr
33 day to this. Thousands of them have languished
prisons for war on the ruling classes of that countr

"Let us come down the line. At the close of Roosevelt'
term as President, he went over to Africa to make war on so
ancestors. You remember at the close of his expedition, h
all of the capitals of Europe and he was wined, dined, dign
glorified by the Kaiser, kings and czars of the old world. I
Potsdam while the Kaiser was there and, according to the
published in the American newspapers, he and the Kaiser
on the most intimate terms. They were hilariously intim
each other. They slapped each other on the back. After
had effused over the German troops, he remarked to the K
I had that kind of an army, I would conquer the world.'
the Kaiser as well as he knows him now and yet he permi
self to be entertained by the Beast of Berlin. He was chee
with the Beast of Berlin. And while he was being entert
the Beast of Berlin, that same Kaiser was putting Socialis
in jail for fighting Kaiserism. Roosevelt was a guest of
the Kaiser while the Socialists were in the jail for fighting th
Who was fighting against the Kaiser? Roosevelt? No.
Socialists.

"When the newspapers reported that Kaiser Wilhelm
President Theodore Roosevelt recognized each other at sig
first touch, they make admission that they are fatal to the
of democracy. They admitted that their ideas and ideals
the same. While Theodore Roosevelt, who is now the gr
pion of democracy, the arch foe of autocracy, what busine
as the guest of honor of the Kaiser and was it not pretty st
that he was a Kaiser at heart? After being the guest of t
he wants us to send 10,000,000 men to murder the Kaiser,
his former friend and pal. And yet he is the patriot and
traitors. I challenge you to find any Socialist who was eve
of the Kaiser, except as one of his prison wards.

"In 1902, Prince Henry paid a visit to this country.
member him? I do. Exceedingly well. Prince Hen
brother of King Wilhelm. He is an autocrat; an aristocrat
of Junkers. He came over in 1902 as the representative
Wilhelm. He was received by Congress, by several State l
among others the State legislature of Massachusetts, then
He was invited there by the members of the legislature.
Prince Henry came there, there was one member who ke
respect, put on his hat, and as Prince Henry walked in,
out, and that man was James F. Carey, and all the rest o
sentatives joined in doing honor in the most servile spirit t
representative of autocracy, and Carey was the only one w
meeting.

"You will remember history along the same line. I have a c
tinct recollection. It occurred just 15 years ago. When Prin
Henry came here, all of our plutocracy, living along Fifth Aven
threw their places' doors wide open and received him with open arm
They got down on their stomachs and vied with each other to li
the boots of Prince Henry, the representative of the Beast of Berl

"Do not imagine for one moment that all the plutocrats a
Junkers are all in Germany; we have them here in our own count
and these want to keep our eyes focused upon the Junkers in G
many so we won't see those within our own border. I have
earthly use for the Junkers of Germany and not one particle mo
use for the Junkers in the United States.

"They tell us that we live in a great republic. Our i
stitutions are democratic. We are a free people. This is t
much, even as a joke. It is not a subject for levity; it is an exce
ingly serious matter.

"To whom do the Wall Street Junkers in our country, to who
do they marry their daughters? After they have wrung the hu
dreds of millions from your sweat and from your life blood, in tim
of war as well as peace, they invest these millions in the titles
broken-down aristocrats, and to buy counts of no-account. Are th
satisfied to wed their daughters to honest workmen? To real dem
crats? They scour the markets of Europe for those who have tit
and nothing else, and they swap their titles for money. And th
swap their matrimony for more money, while the plutocrats in th
country scan the country with their magnifying glasses for eviden
of disloyalty. Patriotism is the last refuge of scoundrels. It h
been the tyrant who wrapped himself in a cloak of religion or pat
otism, or both. They would have you believe that the Socialist par
consists in the main of disloyalists and traitors. It is true, in a ce
tain sense. We are disloyalists and traitors to the real traitors
this nation. And the gang on the Pacific coast are trying to han
Tom Mooney in spite of the protests of the civilized world.

"I know Tom Mooney. He is an absolutely honest, innocen' ma
He had no more to do with the crime with which he was charge
than I have and if he ought to go to the gallows, so ought I. Wh
is he guilty of? I will tell you. For years he has been fighting th
battles of the working class out on the Pacific coast. He continue
loyally in the service of the working class. They said, 'He canno
be bought; he refuses to be bribed. Therefore, he must be mu
dered.'

"Let us review another bit of history. Do you remember whe
Francis J. Heney was shot down in the court-rooms of San Fran
cisco? A committee of high-binders, composed largely of membe
of the Chamber of Commerce, absolutely controlled the courts of Sa
Francisco. They did not hesitate to commit murder to further the
murderous regime. Tom Mooney was the only representative of th
working class that they could not control. They owned the railways
they controlled the industries; they were the rulers and from the
there was no appeal. And they were as infamous as any rulers tha
ruled in Germany or any other country. At last a grand jury wa

found that would indict them, and Francis J. Heney, who had been selected by the National Administration to assist in the prosecution, this same gang controlled by the Chamber of Commerce, this gang hired a murderer to shoot Francis J. Heney down in the court-room and he did. Francis J. Heney happened to live, but that was no fault of theirs. The same gang are also for the execution of Tom Mooney. Every solitary one of them claims to be an arch-patriot. Everyone of them claims he is trying to make democracy safe in this world. What humbug! What rot! What false pretence! The patriots are the men who have the courage to stand face to face and fight them, and they call them disloyalists and traitors, and if this be true, I want to take my place side by side with the traitors in this country.

"Why, the other day they sent a woman to Wichita penitentiary for ten years. Just think of sentencing a woman to the penitentiary for talking. The United States under the rule of the plutocrats is the only country which would send a woman to the penitentiary for ten years for exercising the right to free speech. If this be treason, let them make the most of it. Let me review another bit of history. I have known this woman for ten years. Personally I know her as if she were my own younger sister. She is a woman of absolute integrity. She is a woman of courage. She is a woman of unimpeachable loyalty to the Socialist movement. She went out
35 into Dakota and made her speech, followed by plain-clothes men in the service of the government, intent upon encompassing her arrest, prosecution and conviction. She made a certain speech and that speech was deliberately misrepresented for the purpose of securing her conviction. The only testimony was that of a hired witness. And thirty farmers who went to Bismarck to testify in her favor, the judge refused to allow to testify. This would seem incredible to me if I had not some experience of my own with a Federal court. Who appoints the Federal courts? The people? Every solitary one of them holds his position through influence and power of corporation capital. And when they go to the bench, they go there not to serve the people, but to serve the interests who sent them. The other day, by a vote of five to four, they declared the Child Labor Law unconstitutional; a law secured after twenty years of education and agitation by all kinds of people, and yet by a majority of one, the Supreme Court, a body of corporation lawyers, with just one solitary exception, wiped it from the Statute books, so that we may still continue to grind the blood of little children into profit for the Junkers of Wall Street, and this in a country that is now fighting to make democracy safe for the world. These are not palatable truths to them. And they do not want you to hear them and that is why they brand us as traitors and disloyalists. If we were not traitors to the people, we would be eminently respectable citizens and ride in limousines. It is precisely because we are disloyal to the traitors that we are not disloyal to the people of this country.

"You have heard of Scott Nearing. He is the greatest teacher in the United States. He was in the University of Pennsylvania until the Board of Trustees, composed of great capitalists, found he was

teaching true economics to the students of that university, as the same forces said of a Judean carpenter nineteen centuries ago. They said of Jesus Christ, who was a workman and teacher, they said, 'He is preaching a false religion,' and his lineal descendants said, 'He is preaching economics.' 'We cannot crucify him so we will starve him to death. We will make it impossible for him to get a job. He is a dangerous man. He is teaching the truth.' The truth is always unpalatable to these plutocrats, who make their living by the sweat of the working class.

"They are afraid that we might contaminate you. You are their wards. They are their own guardians. They must see that our vicious doctrines do not reach your ears. What a mistake they make. We ought to pass a resolution of thanks and send it to them. Those are the people who want to seize our paper. And woe to the man who reads Socialist literature. He is a goner. I have known of a thousand experiments but I have never known of a single experiment to escape it. Let me tell you about John Werk, of Milwaukee. The capitalists of Milwaukee said, 'John, we have got to find out about Socialism. John, you are a bright, young lawyer; we want you to find out all about Socialist literature.' After reading the Socialist volume, John was a full-fledged Socialist and has been fighting for us ever since.

"How short-sighted the ruling class is. The exploiter cannot see beyond the end of his nose. He has just cunning enough to know what graft is and where it is but he has no vision. You know this is a great throbbing world that spreads out in all directions. Look at Rockefeller. Every move he makes hastens the coming of his doom. Every time the capitalist class tries to hinder the cause of Socialism they hurt themselves. Every time they strangle a Socialist newspaper they add a thousand voices to those which are aiding Socialism. The Socialist has a great idea. An expanding philosophy. It is spreading over the face of the earth. It is useless to
36 resist it as it is to resist the rising sunrise. Can you see it? If you cannot you are lacking in vision, in understanding. What a privilege it is to serve it. I have regretted a thousand times I can do so little for the movement that has done so much for me. The little that I am, the little that I am hoping to be, is due wholly to the Socialist movement. It gave me my ideas and my ideals, and I would not exchange one of them for all the Rockefeller blood-stained dollars. It taught me how to serve; a lesson to me of priceless value. It taught the ecstasy of the hand-clasp of the comrade. It made it possible for me to get in touch with you, to multiply myself over and over again; to open the avenue to spread out the glorious vistas; to know that I am kin with all that throbs, that becomes class conscious. Every man who toils, everyone of them, is my comrade. To serve them is the highest duty of my life. And in their service I can feel myself expanding. I rise to the stature of a man. Yes, my heart is attuned to yours. All of our hearts are melted into one great heart which throbs to the response of the people.

"Here I hear your heart beats responsive to the Bolsheviki of Russia. (Applause.) Yes, those heroic men and women, those

unconquerable comrades, who have by their sacrifice added fresh lustre to the international movement. Those Russian comrades who have made greater sacrifices, who have suffered more, who have shed more heroic blood than any like number of men and women anywhere else on earth. They have led the first real convention of any democracy that ever drew breath. The first act of that memorable revolution was to proclaim a state of peace with an appeal not to the kings, not to the rulers, but an appeal to the people of all nations. They are the very breath of democracy; the quintessence of freedom. They made their appeal to the people of all nations, the Allies as well as the Central Powers, to send representatives to lay down terms of peace that should be lasting. Here was a fine opportunity to strike a blow to make democracy safe to the world. Was there any response to that noble appeal? And here let me say that appeal will be written in letters of gold in the history of the world. While it has been charged that the leader made a traitorous peace with Germany, let us consider this proposition briefly. At the time of the revolution, Russia had lost 4,000,000 of her soldiers. She was absolutely bankrupt. Her soldiers were without arms. This was what was bequeathed to the revolution by the Czar. For this condition, Leon Trotski was not responsible nor was the Bolshevik movement, but the czar was.

"When Leon Trotski came into power, he found the secret treaties made between the French government and the British government and the Italian government which was to divide the territory of the Central Powers if the Allies were victorious, and these secret treaties have not been repudiated up to this time. Very little has been said about them in the American newspapers. This shows that the purpose of the Allies is exactly the purpose of the Central Powers.

"Wars have been waged for conquests, for plunder, and since the feudal ages along the Rhine, the feudal lords made war upon each other. They wanted to enlarge their domains, to increase their power and their wealth and so they declared war upon each other. But they did not go to war any more than the Wall Street Junkers go to war. Their predecessors declared the wars, but their miserable serfs fought the wars. The serfs believed that it was their patriotic duty to fall upon one another, to wage war upon one another. And that is war in a nutshell. The master class has always brought a war and the subject class has fought the battle. The master class has had all to gain and nothing to loose, and the subject class has all to lose and nothing to gain. They have always taught you that it is your patriotic duty to go to war and slaughter yourselves at their command. You have never had a voice in the war. The working class who make the sacrifices, who shed the blood, have never yet had a voice in declaring war. The ruling class has always made the war and made the peace.

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"Yours not to question why,
Yours but to do and die.

"Another bit of history I want to review is that of Rose Pastor Stokes, another inspiring comrade. She had her millions of dol-

lars. Her devotion to the cause is without all consideration of a financial or economic view. She went out to render service to the cause and they sent her to the penitentiary for ten years. What has she said? Nothing more than I have said here this afternoon. I want to say that if Rose Pastor Stokes is guilty, so am I. If she should be sent to the penitentiary for ten years, so ought I. What did she say? She said that a government could not serve both the profiteers and the employees of the profiteers. Roosevelt has said a thousand times more in his paper, the Kansas City Star. He would do everything possible to discredit Wilson's administration in order to give his party credit. The Republican and Democratic parties are all patriots this fall and they are going to combine to prevent the election of any disloyal Socialists. Do you know of any difference between them? One is in, the other is out. That is all the difference.

"Rose Pastor Stokes never said a word she did not have a right to utter, but her message opened the eyes of the people. That must be suppressed. That voice must be silenced. Her trial in a capitalist court was very farci-al. What chance had she in a corporation court with a put-up jury and a corporation tool on the bench?

"If the war was over tomorrow, all the prison doors would open. They were just to silence these voices during the war, and the cases will be pending in court for months, perhaps years. The truth will make the people free and the truth must not be permitted to reach the people. The truth has always been dangerous to the rule of the rogue, to the exploiters. And every time they make an attempt (to attack Socialism) they have ten thousand voices proclaiming that Socialism must live.

(Gets a glass of water from one on the platform.)

"Thank you, comrade. How good the touch of the hand of a comrade is and a sip of water furnished by a comrade! And how good it is to look into your faces this afternoon! You are really good looking to me this afternoon, I assure you. Your tribe has increased wonderfully since I came here. You used to be so few and so far between. When you struck a place the first thing to do was to try to find a Socialist. If he happened to be the only one in town, he now holds a place of honor in the hearts of all now living. Now you can't throw a stone in the dark without hitting a Socialist.

"I went to Warren some years ago. It happened the year President McKinley was assassinated. In common with all others, I deplored that tragic event. There is not a Socialist who would have been guilty of that crime. We do not attack individuals. We have no fight with individuals. We are capable of pitying those who hate us. We do not hate them. We know better. We would hand them a cup of water if they needed it. There is not any room in our hearts for hate, except for a system, a system in which it is impossible for one man to achieve a tremendous fortune while millions and millions struggle for the bare necessities of life. When McKinley was assassinated the ministers met at Portsmouth and passed a resolution that Debs was responsible for the death of McKinley. So all those ministers met and said I was not permitted to come into the city. I went there soon after, how-

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ever.

"At Warren I was prepared to speak at the hall. I arrived in the evening and was no more than registered when I was ordered to leave the town, as I was not to be permitted to speak there. I sent word to the mayor that I would speak at Warren or I would leave Warren in a box. I went to the hall and the G. A. R. had a special meeting. In the full uniform they sat in the front seats. I went to the hall and made my speech. I told them who was responsible for the assassination. As long as there is misery, caused by robbery at the bottom, there will be assassination at the top. Well, I made the speech that night. I was back there the other day and the whole population of Warren was there to meet me.

"They who have had the courage to take their places at the front, they who have been true enough to speak the truth that is in them, who have espoused the cause of the suffering, struggling poor, who have upheld the cause of righteousness—they have made the history. They have paved the way to civilization. There are so many who remain on the popular side. They lack the fibre that endures. They are to be pitied and not treated with contempt. Those who have lived and endured that we should live on the earth today, had their bones broken on the wheel and were burned at the stake. We are under obligation to them because of what they suffered for us, and the only way we can cancel that obligation is by doing and seeking today for the interest of everyone who needs us.

"Every Socialist on the face of the earth is animated by the same principles. Everywhere they have the same noble idea, everywhere they are calling one another 'comrade', the noblest word that springs from the heart and soul of unity. The word 'comrade' is getting us into closer touch all along the battle line. They are waging the war of the working class against the ruling class of the world. They conquer difficulties; they grow stronger through them all.

"The heart of the international Socialist never beats a retreat. They are pressing forward here, there, everywhere, in all the zones that girdle this globe. These workers, these class-conscious workers, these children of honest toil are wiping out the boundary lines everywhere. They are proclaiming the glad tidings of the coming emancipation. Everywhere they are having their hearts attuned to the sacred cause; everywhere they are moving toward democracy, moving toward the sunrise, their faces aglow with the light of coming day. These are the men who must guide us in the greatest crisis the world has ever known. They are making history. They are bound upon the emancipating of the human race.

"They have been sufficient to themselves, pressing forward toward the heights. Do you wish to hasten the coming day? Join the Socialist party. Do not wait for the morrow. Come now. Enroll your name. Take your place where you belong. You cannot do your duty by proxy. You have got to do it yourself. You will have no occasion to blush. You will know what it is to be a man or a woman. You will lose nothing. You will gain everything. You are very apt to find something. You need to know that you are fit for something better than slavery and cannon fodder. You need to know that you are not created to work and to produce and to im-

poverish yourself. You need to know that you have a soul to develop. You need to know that it is for you to know something about literature and about science and about art. You need to get in touch with your comrades. You need to become conscious of your own interests. You need to know that as long as you are unorganized industrially and content you will remain exactly where you are.
You will be exploited. You will have to beg for a job and
39 you will get just enough to keep you in working order. And you will be looked down upon in contempt. If you would be respected you will have to begin by respecting yourself. I would not want to be in the predicament that poor fellow was in who heard a Socialist speech the other day and thought he ought to be a Socialist. The argument was invincible.

" 'Well, all he said was true.'

"But he finally concluded he might lose his job.

" 'I guess I can't afford to take the chance.'

"That night he slept alone. He was in trouble with his conscience. Such men always are. A Socialist always goes to bed with his self-respect and he can look the whole face in the world (the crowd laughs at the unconscious inversion of words) without a tremor.

"This poor fellow had a terrible dream and bounded from his bed and said: 'My God, there is nobody in this room!' And he was absolutely right. No wonder he was terror-stricken. How would you like to sleep in a room with nobody in it?

"There is a great deal of hope for our comrades, Wagenknecht, Ruthenberg and Baker. Anybody can be nobody, but it takes a man to be somebody. Turn your back upon that corrupt Republican party and that still more corrupt Democratic party, the gold-dust twins of the ruling class. Get into a minority party that fights for a cause. Make that change. It will be the most important change you ever made in your life. You will thank me for having made the suggestion. It was a day of days for me. I passed from darkness to light.

"Great, seething, throbbing Russia was transferred from a land of seething darkness to a land of living light. There is something splendid in the prompting of the heart to be true to yourself.

"You are in the crucible today, Mr. Socialist. You are going to be tried, to what extent, no one knows. If you are of weak fibre, that weakness will be found out. We will have to bid good-bye to you. You are not of the stuff of which revolutionists are made. The intellectuals, a good many of them, are all gone. That is no loss to ourselves and no gain to others. In discussing intellectuals, let us answer this question: They have been with us for a long while. What will become of the rank and file as soon as the shepherds cease to guide us? 'You are my sheep.' In other words, you are my mutton. They are ruled through the intellectuals in the capitalist parties. If you are in the Republican or Democratic party, you will not be called upon to think. They ride in the carriages; you tramp in the mud. The capitalist system affects to have great regard for intellect. We used to tell the capitalists sometime ago, 'The working class will rule'. We used to say, 'The people ought to own

the railroads'. We advocated that twenty years ago. You have to have brains to operate railroads—and the other day McAdoo fi all the brains. Have you noticed any change since the brains h gone? The railroads are now operated by hand.

"This determines how invaluable is the quality of capitalist brai They have always given themselves credit for having superior brai They have had all the brains and all the wealth. As to brain pacity, they are the most woeful people on the face of the earth. they know how to gouge. And they do it legally, for the rea that the class which can rob on a large scale has the power to c trol courts.

"Among other things they tell you to cultivate war gardens. G ernment reports now show that 52% of the arable, tillable soil held out of use by the profiteers. They do not allow others to c tivate it. They keep it idle, to enrich themselves. Thus 40 makes their land valuable. It is not the fault of the peop it is the fault of the landlords. And while we are upon t subject, think about the landlord. The landlord is the great triot. He is fighting to make the world safe for democracy. it is who profits at the expense of the people under the pretense being a great patriot. It is he whom you need to wipe from pow It is he who diminishes your health and your liberty far more th the Prussian junker on the other side of the ocean. According their own figures, they will tell you that we will have to export no wheat for the soldiers on the other side.

"They tell you there is a coal famine. The State of India where I live, is underlaid with coal. The coal is under our feet. that we can possibly use. The miners are ready to enter the min Here is the machinery ready to increase the output to any desi capacity. Aye, only three weeks ago, the officers of the United Mi Workers issued a bulletin to the Labor Department of the Unit States that the 600,000 coal miners of the United States at this ti when they tell us of a coal famine, are not permitted to work mo than one-half time. I have seen the miners idle. In the mea time there is a scarcity of coal. They tell you to buy your coal n and they charge you three prices for it. Now, we have private ow ership of the coal mines, and you ought to have if you vote for t Democratic or Republican ticket. The profiteers want a scarcity coal. They make money out of a scarcity of coal. The operat say there are no cars and the railroads say there is no coal. A between them they defraud the people. Here is the difficulty. He are the cars. The Socialist says, 'Take possession of the mines. the miners at work. Give the miner all he produces.' The min works three hundred feet in the earth. The owner of the mine liv in New York or Vienna or Paris. He does not have to do a bit work. He owns the tools, the machinery and the miner. And th is what you do every time you vote the Democratic or Republic ticket. Let the miner mine the coal and then he gets the full val of his toil. He can then provide himself and his wife and his ch dren with a good home (and plenty to eat). So they continue

charge three prices for coal. If that is the thing you want, you will get it to your heart's content.

"A change is needed, a change of system from despotism to democracy, a change from slavery to freedom; a change from brutehood to brotherhood. To accomplish this you have got to organize, and to organize not along the zig-zag lines laid down by Sam Gompers who, through all of his career, has been on the side of the capitalist class. You never hear the capitalist papers speak of him except in praise. Gompers was always conservative, * * * by solving the labor situation by the aid of Elihu Root and Andy Carnegie with whom he drank wine and smoked scab cigars.

"Few men have the courage to say a decent word in favor of the I. W. W. I have. (Here several in the crowd yelled, 'So have I.')

"I have a great respect for the I. W. W. There has been a pamphlet issued called, 'The Truth about the I. W. W.' After long investigation by five men who are not Socialists: John Graham Brooks, Harvard University, Mr. Bruers, government investigator; (other names not noted).

"These men investigated the I. W. W. They have examined its doings, beginning at Bisbee, Arizona, where the officers deported five hundred. It is only necessary to label a man, 'I. W. W.' to lynch him. Just think of the state of mind for which the capitalist press is responsible.

"When Wall Street yells war, you may rest assured every pulpit in the land will yell war. The press and the pulpit have in every age and every nation been on the side of the exploiting class and the ruling class. That's why the I. W. W. is infamous.

"The I. W. W. in its career has never committed as much violence against the ruling class as the ruling class has committed against the people. The trial at Chicago is now on and they have not proven violence in a single solitary case. And yet, one hundred and twelve have been on trial for months and months without a shade of evidence. And this is all in its favor. And for this and many other reasons, the I. W. W. is fighting the fight of the bottom dog. For the very reason that Gompers is glorified by Wall Street, Bill Haywood is despised by Wall Street. What you need is greater organization.

"In the shop is where the industrial union has its beginning. Organize. Define your capacity. Act together. And when you organize industrially you will soon learn that you can manage industry as well as operate industry. You will find that you do not have to take work from them; you give them work to do. You can dispense with them. You ought to own your own tools. Organize industrially. Make the organization complete. Unite in the Socialist party. Vote as you organize. Stand with your party. See that that party improves the working class, especially this year when the forces will clash as they have never clashed before. Take your place in the ranks. Help to inspire the weak and strengthen the faltering. Then, when we vote together we will develop the supreme power of the one class that can bring peace to the world. We will

transfer the title deeds of the railroads, of the telegraphs, the and the mills. We will transfer them to the people. We wi possession in the name of the people. We will have industrial, and political democracy. This change will be universal.

"And now for all of us to do our duty. The call is ring your ears. Do not worry over the charge of treason to you ters, but be concerned about the treason that involves yourself. year we are going to sweep into power and in this nation and going to destroy capitalistic institutions and re-create them. * The world of capital is collapsing. We need industrial bu We Socialists are the builders of the world that is to be. We viting you this afternoon. Join and it will help you.

"In due course of time we will proclaim the emancipation brotherhood of all mankind."

42 And the Grand Jurors further present and find that time and place aforesaid, and in the manner and und circumstances aforesaid, when he, the said defendant, so uttered, published and said the aforesaid words, speech and a set out in substance as aforesaid, to the persons aforesaid, h said defendant did so wilfully, and with the intent on his p cause and attempt to cause and incite and attempt to incite, ordination, disloyalty, mutiny and refusal of duty, in the n and naval forces of the United States; contrary to the form Statute of the United States in such case made and provide against the peace and dignity of the United States.

43 *Fourth Count.*

See. 3, Title 1, Act of June 15, 1917, as amended by Act of May 16, 1918 (Espionage).

And the Grand Jurors aforesaid, upon their oaths, aforesa further present and find that the sa gene V. Debs, hereinafter designat defendant, late of the Division an trict aforesaid, heretofore, towit, about the 16th day of June, 1918, City of Canton, County of Stark State of Ohio, in the Division and aforesaid, and within the jurisdiction of this court; the United of America being then and there at war with the Imperial G Government pursuant to a joint resolution of the Congress United States, theretofore adopted, and which resolution w proved by the President of the United States on the 6th day of A. D., 1917, did then and there unlawfully, wilfully and felo obstruct and attempt to obstruct the recruiting and enlistmen ice of the United States, that is to say, he the said defenda state, utter, publish and say, in a public speech and address, time and place aforesaid, to a certain assembly of people, whom were Clyde R. Miller, Dennis R. Smith, Virgil Steine divers other persons, whose names are to the Grand Jurors unk and if known, are too numerous to mention herein, and for th son are omitted, part of whom then and there being citizens

United States, and part of whom then and there being persons between the ages of eighteen and forty-five, which said public speech and address so stated, uttered, published and said as aforesaid, at the time and place aforesaid, to the persons aforesaid, and in the manner and under the circumstances aforesaid, in words and substance is as follows:

44 "Comrades, Friends and Fellow-Workers:—

"For this very cordial greeting, this very hearty reception, I thank you all with the fullest appreciation of your interest in and your devotion to the cause of which I am to speak to you this afternoon. To speak for labor, to plead the cause of the men and women and children who toil, to serve the working class, has always been to me a high privilege, a duty of love.

"I have just returned from a visit from yonder (pointing to workhouse) where three of our most loyal comrades are paying the penalty for their devotion to the cause of the working class. They have come to realize, as many of us have, that it is extremely dangerous to exercise the constitutional right of free speech in a country fighting to make democracy safe for the world. I realize in speaking to you this afternoon that there are certain limitations placed upon the right of free speech. I must be extremely careful, prudent, as to what I say, and even more careful and prudent as to how I say it. I may not be able to say all I think, but I am not going to say anything that I do not think. And I would rather a thousand times be a free soul in jail than a sycophant or coward on the streets. They may put those boys in jail and some of the rest of us in jail, but they cannot put the Socialist movement in jail. Those prison bars separate their bodies from ours, but their souls are here this afternoon. They are simply paying the penalty that all men have paid in all of the ages of history for standing erect and seeking to pave the way for better conditions for mankind.

"If it had not been for the men and women who, in the past, have had the moral courage to go to jail, we would still be in the jungles.

"This assembly is exceedingly good to look upon. I wish it were possible to give you what you are giving me this afternoon. What I say here amounts to but little. What I see here is exceedingly important. You workers here in Ohio, enlisted in the greatest cause ever organized in the interests of your class, are making history today in the face of threatening trouble of all kinds, history that is going to be read with profound interest by the coming generation. There is but one thing that you have to be concerned about and that is that you keep four-square with the principles of the international Socialistic movement. It is only when you begin to compromise that trouble begins. So far as I am concerned, it does not matter what others may say or think or do, as long as I am sure that I am right with myself and the cause.

"There are so many who seek refuge in the popular side of a great question. I am not of that number. As a Socialist I have long since learned how to stand alone.

"For the last month I have been traveling over the Hoo
and let me say that in all my connections with the Social
ment, I have never seen such enthusiasm, such unity of m
such a promising outlook as there is today. Notwithstan
statement published by the capitalist press that our leader
serted, I wish to say for myself I never had very much
leaders anyway. I am willing to be charged with almost
rather than be charged with being a leader. I am susp
leaders, especially all the intellectual file. Give me the rank
every day in the week. Go to the City of Washington an
the files there and you will find that the corporation lawye
bers of congress and misrepresentatives of the masses—all
claim that they have risen from the ranks. I am so gla
cannot make that claim for myself. When I rise,
with the ranks and not from the ranks.

"When I came away from Indiana, the comra
'When you cross the line, tell those comrades that we are
and doing duty and are going to make a record this fall
be heard around the world.'

"The Socialists of Ohio are very much alive this year.
has been 'killed' this year, which accounts for its extraordin
ity. This naturally helps a party. The oftener it is killed,
energetic and more powerful they become. We have been
capitalist newspapers lately, and what a capacity they have
They know all about the Socialist party except what is tru
the other day, they took an article that I had written and
you have read, and made it appear that I had undergone
ous transformation. I had suddenly come to my senses, h
to be a wicked Socialist and had become a respectable S
patriotic Socialist—as if I had ever been anything else.
the purpose of this deliberate misrepresentation? It is s
dent that it was against itself. It was to sow dissatisfacti
our ranks, so that we would pit ourselves against each oth
mutual undoing. But Socialists were not born yesterda
know how to read capitalists' newspapers, and to believe e
opposite of what they read.

"Why should a Socialist be discouraged on the eve of th
triumph of all the history of the Socialist movement? It is
these are anxious, trying days for us all, testing those wh
holding the banner of the working class in the greatest str
world has ever known against the exploiters of the world;
which the weak, the cowardly, will falter and fail and dese
lack the fibre to endure the revolutionary test. They
They disappear as if they had never been.

"On the other hand, they who are animated with the u
able spirit of the Social revolution, they who have the mora
to stand erect, to assert their convictions, to stand by them
jail or to hell for them—they are writing their names in th
hour, they are writing their names in fadeless letters in t
of mankind. Those boys over yonder, those comrades of

how I love them—aye, they are our younger brothers, their names are seared in our souls.

"I am proud of them. They are there for us and we are for them. Their lips, though temporarily mute, are more eloquent than ever before, and their voices, though silent, are heard around the world.

"Are we opposed to Prussian militarism? Why, we have been fighting it since the day the Socialist movement was born and we are going to continue to fight it today and until it is wiped from the face of the earth. Between us there is no truce, no compromise, but before I proceed along this line, let me recall a little history in which we are all interested.

"In 1869, that grand old warrior of the Socialist revolution, the elder Liebknecht, was arrested and sent to prison for three months because of his war as a Socialist on the Kaiser and the Junkers that ruled Germany. In the meantime, the Franco-Prussian war broke out. Liebknecht and Badel were the Socialist members of the Reichstag. They were the only two to protest against the taking of Alsace-Lorraine from France and giving it to Germany. They were taken from the Reichstag and sent to prison for two years. For four years previous to this, they had been fighting the Kaiser and the Junkers of Germany. They have fought them from that day to this. Thousands of them have languished in the prisons for war on the ruling classes of that country.

"Let us come down the line. At the close of Roosevelt's second term as President, he went over to Africa to make war on some of his ancestors. You remember at the close of his expedition, he visited all of the capitals of Europe and he was wined, dined, dignified and glorified by the Kaiser, kings and czars of the old world. He visited Potsdam while the Kaiser was there and, according to the account published in the American newspapers, he and the Kaiser were soon on the most intimate terms. They were hilariously intimate with each other. They slapped each other on the back. After Roosevelt had effused over the German troops, he remarked to the Kaiser, 'If I had that kind of an army, I would conquer the world.' He knew the Kaiser as well as he knows him now and yet he permitted himself to be entertained by the Beast of Berlin. He was check by jowl with the Beast of Berlin. And while he was being entertained by the Beast of Berlin, that same Kaiser was putting Socialist leaders in jail for fighting Kaiserism. Roosevelt was a guest of honor of the Kaiser while the Socialists were in the jail for fighting the Kaiser. Who was fighting against the Kaiser? Roosevelt? No. It was the Socialists.

"When the newspapers reported that Kaiser Wilhelm and Ex-President Theodore Roosevelt recognized each other at sight, at the first touch, they make admission that they are fatal to the champions of democracy. They admitted that their ideas and ideals were about the same. While Theodore Roosevelt, who is now the great champion of democracy, the arch foe of autocracy, what business had he as the guest of honor of the Kaiser and was it not pretty strong proof that he was a Kaiser at heart? After being the guest of the Kaiser he wants us to send 10,000,000 men to murder the Kaiser, to murder

his former friend and pal. And yet he is the patriot and
traitors. I challenge you to find any Socialist who was eve
of the Kaiser, except as one of his prison wards.

"In 1902, Prince Henry paid a visit to this country. I
member him? I do. Exceedingly well. Prince Hen
brother of King Wilhelm. He is an autocrat; an aristocrat
of Junkers. He came over in 1902 as the representative
Wilhelm. He was received by Congress, by several State le
among others the State legislature of Massachusetts, then
He was invited there by the members of the legislature.
Prince Henry came there, there was one member who ke
respect, put on his hat, and as Prince Henry walked in,
out, and that man was James F. Carey, and all the rest of
sentatives joined in doing honor in the most servile spirit to
representative of autocracy, and Carey was the only one wh
meeting.

"You will remember history along the same line. I h
tinct recollection. It occurred just 15 years ago. Wh
Henry came here, all of our plutocracy, living along Fift
threw their places' doors wide open and received him with
They got down on their stomachs and vied with each oth
the boots of Prince Henry, the representative of the Beast

"Do not imagine for one moment that all the plut
Junkers are all in Germany; we have them here in our ow
and these want to keep our eyes focused upon the Junke
many so we won't see those within our own border. I
earthly use for the Junkers of Germany and not one par
use for the Junkers in the United States.

47 "They tell us that we live in a great republic,
stitutions are democratic. We are a free people.
much, even as a joke. It is not a subject for levity; it is
ingly serious matter.

"To whom do the Wall Street Junkers in our country
do they marry their daughters? After they have wrung
dreds of millions from your sweat and from you- life bloo
of war as well as peace, they invest these millions in th
broken-down aristocrats, and to buy counts of no-account,
satisfied to wed their daughters to honest workmen? To
crats? They scour the markets of Europe for those who
and nothing else, and they swap their titles for money,
swap their matrimony for more money, while the plutoc
country scan the country with their magnifying glasses fo
of disloyalty. Patriotism is the last refuge of scoundre
been the tyrant who wrapped himself in a cloak of religio
otism, or both. They would have you believe that the Soci
consists in the main of disloyalists and traitors. It is tru
tain sense. We are disloyalists and traitors to the real
this nation. And the gang on the Pacific coast are tryi
Tom Mooney in spite of the protests of the civilized worl

"I know Tom Mooney. He is an absolutely honest, inn
He had no more to do with the crime with which he w

than I have and if he ought to go to the gallows, so ought I. Wh
is he guilty of? I will tell you. For years he has been fighting t
battles of the working class out on the Pacific coast. He continu
loyally in the service of the working class. They said, 'He cann
be bought; he refuses to be bribed. Therefore, he must be mu
dered.'

"Let us review another bit of history. Do you remember wh
Francis J. Heney was shot down in the court-rooms of San Fra
cisco? A committee of high-binders, composed largely of membe
of the Chamber of Commerce, absolutely controlled the courts of S
Francisco. They did not hesitate to commit murder to further th
murderous regime. Tom Mooney was the only representative of t
working class that they could not control. They owned the railway
they controlled the industries; they were the rulers and from th
there was no appeal. And they were as infamous as any rulers th
ruled in Germany or any other country. At last a grand jury w
found that would indict them, and Francis J. Heney, who had be
selected by the National Administration to assist in the prosecutio
this same gang controlled by the Chamber of Commerce, this ga
hired a murderer to shoot Francis J. Heney down in the court-roo
and he did. Francis J. Heney happened to live, but that was
fault of theirs. The same gang are also for the execution of To
Mooney. Every solitary one of them claims to be an arch-patri
Everyone of them claims he is trying to make democracy safe in th
world. What humbug! What rot! What false pretence! T
patriots are the men who have the courage to stand face to face a
fight them, and they call them disloyalists and traitors, and if th
be true, I want to take my place side by side with the traitors in th
country.

"Why, the other day they sent a woman to Wichita penitentia
for ten years. Just think of sentencing a woman to the penitentia
for talking. The United States under the rule of the plutocrats
the only country which would send a woman to the penitentiary
ten years for exercising the right to free speech. If this be treas
let them make the most of it. Let me review another bit of histo
I have known this woman for ten years. Personally I know her
if she were my own younger sister. She is a woman of absolu
integrity. She is a woman of courage. She is a woman of uni
peachable loyalty to the Socialist movement. She went
18 into Dakota and made her speech, followed by plain-cloth
men in the service of the government, intent upon enco
passing her arrest, prosecution and conviction. She made a certa
speech and that speech was deliberately misrepresented for the p
pose of securing her conviction. The only testimony was that o
hired witness. And thirty farmers who went to Bismarck to test
in her favor, the judge refused to allow to testify. This would se
incredible to me if I had not some experience of my own with
Federal court. Who appoints the Federal courts? The peop
Every solitary one of them holds his position through influence a
power of corporation capital. And when they go to the bench, th
go there not to serve the people, but to serve the interests who s

them. The other day, by a vote of five to four, they declared the Child Labor Law unconstitutional; a law secured after twenty years of education and agitation by all kinds of people, and yet by a majority of one, the Supreme Court, a body of corporation lawyers, with just one solitary exception, wiped it from the Statute books, so that we may still continue to grind the blood of little children into profit for the Junkers of Wall Street, and this in a country that is now fighting to make democracy safe for the world. These are not palatable truths to them. And they do not want you to hear them and that is why they brand us as traitors and disloyalists. If we were not traitors to the people, we would be eminently respectable citizens and ride in limousines. It is precisely because we are disloyal to the traitors that we are not disloyal to the people of this country.

"You have heard of Scott Nearing. He is the greatest teacher in the United States. He was in the University of Pennsylvania until the Board of Trustees, composed of great capitalists, found he was teaching true economics to the students of that university, as the same forces said of a Judean carpenter nineteen centuries ago. They said of Jesus Christ, who was a workman and teacher, they said, 'He is preaching a false religion,' and his lineal descendants said, 'He is preaching economics.' 'We cannot crucify him so we will starve him to death. We will make it impossible for him to get a job. He is a dangerous man. He is teaching the truth.' The truth is always unpalatable to these plutocrats, who make their living by the sweat of the working class.

"They are afraid that we might contaminate you. You are their wards. They are their own guardians. They must see that our vicious doctrines do not reach your ears. What a mistake they make. We ought to pass a resolution of thanks and send it to them. Those are the people who want to seize our paper. And woe to the man who reads Socialist literature. He is a goner. I have known of a thousand experiments but I have never known of a single experiment to escape it. Let me tell you about John Werk, of Milwaukee. The capitalists of Milwaukee said, 'John, we have got to find out about Socialism. John, you are a bright, young lawyer; we want you to find out all about Socialist literature.' After reading the Socialist volume, John was a full-fledged Socialist and has been fighting for us ever since.

"How short-sighted the ruling class is. The exploiter cannot see beyond the end of his nose. He has just cunning enough to know what graft is and where it is but he has no vision. You know this is a great throbbing world that spreads out in all directions. Look at Rockefeller. Every move he makes hastens the coming of his doom. Every time the capitalist class tries to hinder the cause of Socialism they hurt themselves. Every time they strangle a Socialist newspaper they add a thousand voices to those which are aiding Socialism. The Socialist has a great idea. An expanding philosophy.

It is spreading over the face of the earth. It is useless to
19 resist it as it is to resist the rising sunrise. Can you see it?

If you cannot you are lacking in vision, in understanding. What a privilege it is to serve it. I have regretted a thousand times

I can do so little for the movement that has done so much for me. The little that I am, the little that I am hoping to be, is due wholly to the Socialist movement. It gave me my ideas and my ideals, and I would not exchange one of them for all the Rockefeller blood-stained dollars. It taught me how to serve; a lesson to me of priceless value. It taught the ecstasy of the hand-clasp of the comrade. It made it possible for me to get in touch with you, to multiply myself over and over again; to open the avenue to spread out the glorious vistas; to know that I am kin with all that throbs, that becomes class conscious. Every man who toils, everyone of them, is my comrade. To serve them is the highest duty of my life. And in their service I can feel myself expanding. I rise to the stature of a man. Yes, my heart is attuned to yours. All of our hearts are melted into one great heart which throbs to the response of the people.

"Here I hear your heart beats responsive to the Bolsheviki of Russia. (Applause.) Yes, those heroic men and women, those unconquerable comrades, who have by their sacrifice added fresh lustre to the international movement. Those Russian comrades who have made greater sacrifices, who have suffered more, who have shed more heroic blood than any like number of men and women anywhere else on earth. They have led the first real convention of any democracy that ever drew breath. The first act of that memorable revolution was to proclaim a state of peace with an appeal not to the kings, not to the rulers, but an appeal to the people of all nations. They are the very breath of democracy; the quintessence of freedom. They made their appeal to the people of all nations, the Allies as well as the Central Powers, to send representatives to lay down terms of peace that should be lasting. Here was a fine opportunity to strike a blow to make democracy safe to the world. Was there any response to that noble appeal? And here let me say that appeal will be written in letters of gold in the history of the world. While it has been charged that the leader made a traitorous peace with Germany, let us consider this proposition briefly. At the time of the revolution, Russia had lost 4,000,000 of her soldiers. She was absolutely bankrupt. Her soldiers were without arms. This was what was bequeathed to the revolution by the Czar. For this condition, Leon Trotski was not responsible nor was the Bolshevik movement, but the czar was.

"When Leon Trotski came into power, he found the secret treaties made between the French government and the British government and the Italian government which was to divide the territory of the Central Powers if the Allies were victorious, and these secret treaties have not been repudiated up to this time. Very little has been said about them in the American newspapers. This shows that the purpose of the Allies is exactly the purpose of the Central Powers.

"Wars have been waged for conquests, for plunder, and since the feudal ages along the Rhine, the feudal lords made war upon each other. They wanted to enlarge their domains, to increase their power and their wealth and so they declared war upon each other. But they did not go to war any more than the Wall Street Junkers

go to war. Their predecessors declared the wars, but their miserable serfs fought the wars. The serfs believed that it was their patriotic duty to fall upon one another, to wage war upon one another. And that is war in a nutshell. The master class has always brought a war and the subject class has fought the battle. The master class has had all to gain and nothing to loose, and the subject class has all to lose and nothing to gain. They have always taught you that it is your patriotic duty to go to war and slaughter yourselves at their command. You have never had a voice in the war. The working class who make the sacrifices, who shed the blood, have never yet had a voice in declaring war. The ruling class has always made the war and made the peace.

"Yours not to question why,
Yours but to do and die.

"Another bit of history I want to review is that of Rose Pastor Stokes, another inspiring comrade. She had her millions of dollars. Her devotion to the cause is without all consideration of a financial or economic view. She went out to render service to the cause and they sent her to the penitentiary for ten years. What has she said? Nothing more than I have said here this afternoon. I want to say that if Rose Pastor Stokes is guilty, so am I. If she should be sent to the penitentiary for ten years, so ought I. What did she say? She said that a government could not serve both the profiteers and the employees of the profiteers. Roosevelt has said a thousand times more in his paper, the Kansas City Star. He would do everything possible to discredit Wilson's administration in order to give his party credit. The Republican and Democratic parties are all patriots this fall and they are going to combine to prevent the election of any disloyal Socialists. Do you know of any difference between them? One is in, the other is out. That is all the difference.

"Rose Pastor Stokes never said a word she did not have a right to utter, but her message opened the eyes of the people. That must be suppressed. That voice must be silenced. Her trial in a capitalist court was very farci-al. What chance had she in a corporation court with a put-up jury and a corporation tool on the bench?

"If the war was over tomorrow, all the prison doors would open. They were just to silence these voices during the war, and the cases will be pending in court for months, perhaps years. The truth will make the people free and the truth must not be permitted to reach the people. The truth has always been dangerous to the rule of the rogue, to the exploiters. And every time they make an attempt (to attack Socialism) they have ten thousand voices proclaiming that Socialism must live.

(Gets a glass of water from one on the platform.)

"Thank you, comrade. How good the touch of the hand of a comrade is and a sip of water furnished by a comrade! And how good it is to look into your faces this afternoon! You are really good looking to me this afternoon, I assure you. Your tribe has increased wonderfully since I came here. You used to be so few and

so far between. When you struck a place the first thing to do was to try to find a Socialist. If he happened to be the only one in town, he now holds a place of honor in the hearts of all now living. Now you can't throw a stone in the dark without hitting a Socialist.

"I went to Warren some years ago. It happened the year President McKinley was assassinated. In common with all others, I deplored that tragic event. There is not a Socialist who would have been guilty of that crime. We do not attack individuals. We have no fight with individuals. We are capable of pitying those who hate us. We do not hate them. We know better. We would hand them a cup of water if they needed it. There is not any room in our hearts for hate, except for a system, a system in which it is impossible for one man to achieve a tremendous fortune while millions and millions struggle for the bare necessities of life. When McKinley was assassinated the ministers met at Portsmouth and passed a resolution that Debs was responsible for the death of McKinley. So all those ministers met and said I was not permitted to come into the city. I went there soon after, however.

"At Warren I was prepared to speak at the hall. I arrived in the evening and was no more than registered when I was ordered to leave the town, as I was not to be permitted to speak there. I sent word to the mayor that I would speak at Warren or I would leave Warren in a box. I went to the hall and the G. A. R. had a special meeting. In the full uniform they sat in the front seats. I went to the hall and made my speech. I told them who was responsible for the assassination. As long as there is misery, caused by robbery at the bottom, there will be assassination at the top. Well, I made the speech that night. I was back there the other day and the whole population of Warren was there to meet me.

"They who have had the courage to take their places at the front, they who have been true enough to speak the truth that is in them, who have espoused the cause of the suffering, struggling poor, who have upheld the cause of righteousness—they have made the history. They have paved the way to civilization. There are so many who remain on the popular side. They lack the fibre that endures. They are to be pitied and not treated with contempt. Those who have lived and endured that we should live on the earth today, had their bones broken on the wheel and were burned at the stake. We are under obligation to them because of what they suffered for us, and the only way we can cancel that obligation is by doing and seeking today for the interest of everyone who needs us.

"Every Socialist on the face of the earth is animated by the same principles. Everywhere they have the same noble idea, everywhere they are calling one another 'comrade', the noblest word that springs from the heart and soul of unity. The word 'comrade' is getting us into closer touch all along the battle line. They are waging the war of the working class against the ruling class of the world. They conquer difficulties; they grow stronger through them all.

"The heart of the international Socialist never beats a retreat. They are pressing forward here, there, everywhere, in all the zones

that girdle this globe. These workers, these class-conscious worker these children of honest toil are wiping out the boundary lines ever where. They are proclaiming the glad tidings of the coming emanc pation. Everywhere they are having their hearts attuned to th sacred cause; everywhere they are moving toward democracy, mo ing toward the sunrise, their faces aglow with the light of comi day. These are the men who must guide us in the greatest crisis th world has ever known. They are making history. They are boun upon the emancipating of the human race.

"They have been sufficient to themselves, pressing forward towa the heights. Do you wish to hasten the coming day? Join the S cialist party. Do not wait for the morrow. Come now. Enro your name. Take your place where you belong. You cannot e your duty by proxy. You have got to do it yourself. You wi have no occasion to blush. You will know what it is to be a man a woman. You will lose nothing. You will gain everything. Yo are very apt to find something. You need to know that you are for something better than slavery and cannon fodder. You need know that you are not created to work and to produce and to im poverish yourself. You need to know that you have a soul to d velop. You need to know that it is for you to know something abo literature and about science and about art. You need to get i touch with your comrades. You need to become conscious of yo own interests. You need to know that as long as you are unorganize industrially and content you will remain exactly where you ar

You will be exploited. You will have to beg for a job a
52 you will get just enough to keep you in working order. A
you will be looked down upon in contempt. If you wou

be respected you will have to begin by respecting yourself. I wou not want to be in the predicament that poor fellow was in who hea a Socialist speech the other day and thought he ought to be a S cialist. The argument was invincible.

" 'Well, all he said was true.'

"But he finally concluded he might lose his *bob*.

" 'I guess I can't afford to take the chance.'

"That night he slept alone. He was in trouble with his conscienc Such men always are. A Socialist always goes to bed with his se respect and he can look the whole face in the world (the crow laughs at the unconscious inversion of words) without a tremor.

"This poor fellow had a terrible dream and bounded from his b and said: 'My God, there is nobody in this room!' And he was abs lutely right. No wonder he was terror-stricken. How would y like to sleep in a room with nobody in it?

"There is a great deal of hope for our comrades, Wagenknec Ruthenberg and Baker. Anybody can be nobody, but it takes man to be somebody. Turn your back upon that corrupt Republica party and that still more corrupt Democratic party, the gold-d twins of the ruling class. Get into a minority party that fights f a cause. Make that change. It will be the most important chan you ever made in your life. You will thank me for having ma

the suggestion. It was a day of days for me. I passed from darkness to light.

"Great, seething, throbbing Russia was transferred from a land of seething darkness to a land of living light. There is something splendid in the prompting of the heart to be true to yourself.

"You are in the crucible today, Mr. Socialist. You are going to be tried, to what extent, no one knows. If you are of weak fibre, that weakness will be found out. We will have to bid good-bye to you. You are not of the stuff of which revolutionists are made. The intellectuals, a good many of them, are all gone. That is no loss to ourselves and no gain to others. In discussing intellectuals, let us answer this question: They have been with us for a long while. What will become of the rank and file as soon as the shepherds cease to guide us? 'You are my sheep.' In other words, you are my mutton. They are ruled through the intellectuals in the capitalist parties. If you are in the Republican or Democratic party, you will not be called upon to think. They ride in the carriages; you tramp in the mud. The capitalist system affects to have great regard for intellect. We used to tell the capitalists sometime ago, 'The working class will rule'. We used to say, 'The people ought to own the railroads'. We advocated that twenty years ago. You have got to have brains to operate railroads—and the other day McAdoo fired all the brains. Have you noticed any change since the brains have gone? The railroads are now operated by hand.

"This determines how invaluable is the quality of capitalist brains. They have always given themselves credit for having superior brains. They have had all the brains and all the wealth. As to brain capacity, they are the most woeful people on the face of the earth. But they know how to gouge. And they do it legally, for the reason that the class which can rob on a large scale has the power to control courts.

"Among other things they tell you to cultivate war gardens. Government reports now show that 52% of the arable, tillable soil is held out of use by the profiteers. They do not allow others to cultivate it. They keep it idle, to enrich themselves. Thus, it
53 makes their land valuable. It is not the fault of the people; it is the fault of the landlords. And while we are upon the subject, think about the landlord. The landlord is the great patriot. He is fighting to make the world safe for democracy. He it is who profits at the expense of the people under the pretense of being a great patriot. It is he whom you need to wipe from power. It is he who diminishes your health and your liberty far more than the Prussian junker on the other side of the ocean. According to their own figures, they will tell you that we will have to export more wheat for the soldiers on the other side.

"They tell you there is a coal famine. The State of Indiana, where I live, is underlaid with coal. The coal is under our feet. All that we can possibly use. The miners are ready to enter the mines. Here is the machinery ready to increase the output to any desired capacity. Aye, only three weeks ago, the officers of the United Mine Workers issued a bulletin to the Labor Department of the United States that the 600,000 coal miners of the United States at this time when they tell us of a coal famine, are not permitted to work more

than one-half time. I have seen the miners idle. In the me
time there is a scarcity of coal. They tell you to buy your coal n
and they charge you three prices for it. Now, we have private ow
ership of the coal mines, and you ought to have if you vote for
Democratic or Republican ticket. The profiteers want a scarcity
coal. They make money out of a scarcity of coal. The operat
say there are no cars and the railroads say there is no coal. A
between them they defraud the people. Here is the difficulty. H
are the cars. The Socialist says, 'Take possession of the mines.
the miners at work. Give the miner all he produces.' The mi
works three hundred feet in the earth. The owner of the mine li
in New York or Vienna or Paris. He does not have to do a bit
work. He owns the tools, the machinery and the miner. And t
is what you do every time you vote the Democratic or Republic
ticket. Let the miner mine the coal and then he gets the full va
of his toil. He can then provide himself and his wife and his c
dren with a good home (and plenty to eat). So they continue
charge three prices for coal. If that is the thing you want, you
get it to your heart's content.

"A change is needed, a change of system from despotism to
mocracy, a change from slavery to freedom; a change from bru
hood to brotherhood. To accomplish this you have got to organ
and to organize not along the zig-zag lines laid down by Sam G
pers who, through all of his career, has been on the side of the
italist class. You never hear the capitalist papers speak of
except in praise. Gompers was always conservative. * * *
solving the labor situation by the aid of Elihu Root and Andy
negie with whom he drank wine and smoked scab cigars.

"Few men have the courage to say a decent word in favor of
I. W. W. I have. (Here several in the crowd yelled, 'So have

"I have a great respect for the I. W. W. There has bee
pamphlet issued called, 'The Truth about the I. W. W.' After
investigation by five men who are not Socialists: John Gral
Brooks, Harvard University, Mr. Bruers, government investiga
(other names not noted).

"These men investigated the I. W. W. They have examined
doings, beginning at Bisbee, Arizona, where the officers depo
five hundred. It is only necessary to label a man, 'I. W. W.
lynch him. Just think of the state of mind for which the capit
press is responsible.

"When Wall Street yells war, you may rest assured e
51 pulpit in the land will yell war. The press and the pu
have in every age and every nation been on the side of
exploiting class and the ruling class. That's why the I. W. W
infamous.

"The I. W. W. in its career has never committed as much viol
against the ruling class as the ruling class has committed aga
the people. The trial at Chicago is now on and they have not pr
violence in a single solitary case. And yet, one hundred and tw
have been on trial for months and months without a shade of
dence. And this is all in its favor. And for this and many o
reasons, the I. W. W. is fighting the fight of the bottom dog.

the very reason that Gompers is glorified by Wall Street, Bill Haywood is despised by Wall Street. What you need is greater organization.

"In the shop is where the industrial union has its beginning. Organize. Define your capacity. Act together. And when you organize industrially you will soon learn that you can manage industry as well as operate industry. You will find that you do not have to take work from them; you give them work to do. You can dispense with them. You ought to own your own tools. Organize industrially. Make the organization complete. Unite in the Socialist party. Vote as you organize. Stand with your party. See that that party improves the working class, especially this year when the forces will clash as they have never clashed before. Take your place in the ranks. Help to inspire the weak and strengthen the faltering. Then, when we vote together we will develop the supreme power of the one class that can bring peace to the world. We will transfer the title deeds of the railroads, of the telegraphs, the mines and the mills. We will transfer them to the people. We will take possession in the name of the people. We will have industrial, social and political democracy. This change will be universal.

"And now for all of us to do our duty. The call is ringing in your ears. Do not worry over the charge of treason to your masters, but be concerned about the treason that involves yourself. This year we are going to sweep into power and in this nation and we are going to destroy capitalistic institutions and re-create them. * * * The world of capital is collapsing. We need industrial builders. We Socialists are the builders of the world that is to be. We are inviting you this afternoon. Join and it will help you.

"In due course of time we will proclaim the emancipation of the brotherhood of all mankind."

55 And the Grand Jurors further present and find that at the time and place aforesaid, and in the manner and under the circumstances aforesaid, when he, the said defendant, so stated, uttered, published and said the aforesaid words, speech and address, set out in substance as aforesaid, to the persons aforesaid, he, the said defendant did so wilfully, and with the intent on his part to obstruct and attempt to obstruct the recruiting and enlistment service of the United States; contrary to the form of the Statute of the United States in such case made and provided, and against the peace and dignity of the United States.

56 *Fifth Count.*

See. 3, Title 1, Act of June 15, 1917, as amended by Act of May 16, 1918 (Espionage).

And the Grand Jurors aforesaid, upon their oaths aforesaid, do further present and find that the said Eugene V. Debs, hereinafter designated the defendant, late of the Division and District aforesaid, heretofore, towit, on or about the 16th day of June, 1918, at the City of Canton, County of Stark, in the State of Ohio, in the Division and District aforesaid, and within the jurisdicton of this Court: the United States

of America being then and there at war with the Imperial Ger
Government pursuant to a joint resolution of the Congress of
United States, theretofore adopted, and which resolution was
proved by the President of the United States on the 6th day of A
A. D., 1917, did then and there unlawfully, wilfully and felonio
utter and publish certain disloyal language about the form of
ernment of the United States and the Constitution of the Un
States, and the military and naval forces of the United States,
is to say, he, the said defendant, did utter and publish certain
loyal language, in a public speech and address, at the time and p
aforesaid, to a certain assembly of people, among whom were C
R. Miller, Dennis R. Smith, Virgil Steiner, A. P. Owen, and di
other persons, whose names are to the Grand Jurors unknown,
if known, are too numerous to mention herein, and for that rea
are omitted, which said certain disloyal language about the form
Government of the United States and the Constitution of the Un
States, and the military and naval forces of the United States,
words and substance, is as follows:

57 "Comrades, Friends and Fellow-Workers:—

"For this very cordial greeting, this very hearty recepti
I thank you all with the fullest appreciation of your interest in y
devotion to the cause of which I am to speak to you this afterno
To speak for labor, to plead the cause of the men and women
children who toil, to serve the working class, has always been to m
high privilege, a duty of love.

"I have just returned from a visit from yonder (pointing to wo
house) where three of our most loyal comrades are paying the p
alty for their devotion to the cause of the working class. They h
come to realize, as many of us have, that it is extremely danger
to exercise the constitutional right of free speech in a country fig
ing to make democracy safe for the world. I realize in speaki
to you this afternoon that there are certain limitations placed u
the right of free speech. I must be extremely careful, prudent,
to what I say, and even more careful and prudent as to how I say
I may not be able to say all I think, but I am not going to say a
thing that I do not think. And I would rather a thousand times
a free soul in jail than a sycophant or coward on the streets. Th
may put those boys in jail and some of the rest of us in jail, b
they cannot put the Socialist movement in jail. Those prison b
separate their bodies from ours, but their souls are here this aft
noon. They are simply paying the penalty that all men have p
in all of the ages of history for standing erect and seeking to p
the way for better conditions for mankind.

"If it had not been for the men and women who, in the p
have had the moral courage to go to jail, we would still be in t
jungles.

"This assembly is exceedingly good to look upon. I wish it w
possible to give you what you are giving me this afternoon. Wh
I say here amounts to but little. What I see here is exceedingly i
portant. You workers here in Ohio, enlisted in the greatest ca

ever organized in the interests of your class, are making history today in the face of threatening trouble of all kinds, history that is going to be read with profound interest by the coming generation. There is but one thing that you have to be concerned about, and that is that you keep four-square with the principles of the international Socialistic movement. It is only when you begin to compromise that trouble begins. So far as I am concerned, it does not matter what others may say or think or do, as long as I am sure that I am right with myself and the cause.

"There are so many who seek refuge in the popular side of a great question. I am not of that number. As a Socialist I have long since learned how to stand alone.

"For the last month I have been traveling over the Hoo-ier state, and let me say that in all my connections with the Socialist movement, I have never seen such enthusiasm, such unity of movement, such a promising outlook as there is today. Notwithstanding the statement published by the capitalist press that our leaders had deserted, I wish to say for myself I never had very much faith in leaders anyway. I am willing to be charged with almost anything rather than be charged with being a leader. I am suspicious of leaders, especially all the intellectual file. Give me the rank and file every day in the week. Go to the City of Washington and consult the files there and you will find that the corporation lawyers, members of congress and misrepresentatives of the masses—all of them claim that they have risen from the ranks. I am so glad that I cannot make that claim for myself. When I rise, it will be
58 with the ranks and not from the ranks.

"When I came away from Indiana, the comrades said, 'When you cross the line, tell those comrades that we are on duty and doing duty and are going to make a record this fall that will be heard around the world.'

"The Socialists of Ohio are very much alive this year. The party has been 'killed' this year, which accounts for its extraordinary activity. This naturally helps a party. The oftener it is killed, the more energetic and more powerful they become. We have been reading capitalist newspapers lately, and what a capacity they have for lying. They know all about the Socialist party except what is true. Only the other day, they took an article that I had written and most of you have read, and made it appear that I had undergone a marvelous transformation. I had suddenly come to my senses, had ceased to be a wicked Socialist and had become a respectable Socialist, a patriotic Socialist—as if I had ever been anything else. What was the purpose of this deliberate misrepresentation? It is so self-evident that it was against itself. It was to sow dissatisfaction among our ranks, so that we would pit ourselves against each other to our mutual undoing. But Socialists were not born yesterday. They know how to read capitalists' newspapers, and to believe exactly the opposite of what they read.

"Why should a Socialist be discouraged on the eve of the greatest triumph of all the history of the Socialist movement? It is true that these are anxious, trying days for us all, testing those who are up-

holding the banner of the working class in the greatest strugg
world has ever known against the exploiters of the world; a ti
which the weak, the cowardly, will falter and fail and desert.
lack the fibre to endure the revolutionary test. They fall
They disappear as if they had never been.

"On the other hand, they who are animated with the uncon
able spirit of the Social revolution, they who have the moral co
to stand erect, to assert their convictions, to stand by them, to
jail or to hell for them—they are writing their names in this e
hour, they are writing their names in fadeless letters in the h
of mankind. Those boys over yonder, those comrades of ours
how I love them—aye, they are our younger brothers, their
are seared in our souls.

"I am proud of them. They are there for us and we are he
them. Their lips, though temporarily mute, are more eloquent
ever before, and their voices, though silent, are heard aroun
world.

"Are we opposed to Prussian militarism? Why, we have
fighting it since the day the Socialist movement was born a
are going to continue to fight it today and until it is wiped
the face of the earth. Between us there is no truce, no compr
but before I proceed along this line, let me recall a little hist
which we are all interested.

"In 1869, that grand old warrior of the Socialist revolutio
elder Liebknecht, was arrested and sent to prison for three n
because of his war as a Socialist on the Kaiser and the Junke
ruled Germany. In the meantime, the Franco-Prussian war
out. Liebknecht and Badel were the Socialist members
Reichstag. They were the only two to protest against the tak
Alsace-Lorraine from France and giving it to Germany. The
taken from the Reichstag and sent to prison for two years. Fo
years previous to this, they had been fighting the Kaiser a
Junkers of Germany. They have fought them from
59 day to this. Thousands of them have languished i
prisons for war on the ruling classes of that country.

"Let us come down the line. At the close of Roosevelt's
term as President, he went over to Africa to make war on some
ancestors. You remember at the close of his expedition, he
all of the capitals of Europe and he was wined, dined, dignifi
glorified by the Kaiser, kings and czars of the old world. He
Potsdam while the Kaiser was there and, according to the a
published in the American newspapers, he and the Kaiser wer
on the most intimate terms. They were hilariously intimat
each other. They slapped each other on the back. After Ro
had effused over the German troops, he remarked to the Kai
I had that kind of an army, I would conquer the world.' He
the Kaiser as well as he knows him now and yet he permitte
self to be entertained by the Beast of Berlin. He was cheek b
with the Beast of Berlin. And while he was being entertai
the Beast of Berlin, that same Kaiser was putting Socialist
in jail for fighting Kaiserism. Roosevelt was a guest of ho

the Kaiser while the Socialists were in the jail for fighting the Kaiser. Who was fighting against the Kaiser? Roosevelt? No. It was the Socialists.

"When the newspapers reported that Kaiser Wilhelm and Ex-President Theodore Roosevelt recognized each other at sight, at the first touch, they made admission that they are fatal to the champions of democracy. They admitted that their ideas and ideals were about the same. While Theodore Roosevelt, who is now the great champion of democracy, the arch foe of autocracy, what business had he as the guest of honor of the Kaiser and was it not pretty strong proof that he was a Kaiser at heart? After being the guest of the Kaiser, he wants us to send 10,000,000 men to murder the Kaiser, to murder his former friend and pal. And yet he is the patriot and we are the traitors. I challenge you to find any Socialist who was ever the guest of the Kaiser, except as one of his prison wards.

"In 1902, Prince Henry paid a visit to this country. Do you remember him? I do. Exceedingly well. Prince Henry is the brother of King Wilhelm. He is an autocrat; an aristocrat; a Junker of Junkers. He came over in 1902 as the representative of Kaiser Wilhelm. He was received by Congress, by several State legislatures, among others the State legislature of Massachusetts, then in session. He was invited there by the members of the legislature. And when Prince Henry came there, there was one member who kept his self-respect, put on his hat, and as Prince Henry walked in, he walked out, and that man was James F. Carey, and all the rest of the representatives joined in doing honor in the most servile spirit to that high representative of autocracy, and Carey was the only one who left that meeting.

"You will remember history along the same line. I have a distinct recollection. It occurred just 15 years ago. When Prince Henry came here, all of our plutocracy, living along Fifth Avenue, threw their palace doors wide open and received him with open arms. They got down on their stomachs and vied with each other to lick the boots of Prince Henry, the representative of the Beast of Berlin.

"Do not imagine for one moment that all the plutocrats and Junkers are all in Germany; we have them here in our own country, and these want to keep our eyes focused upon the Junkers in Germany so we won't see those within our own border. I have no earthly use for the Junkers of Germany and not one particle more use for the Junkers in the United States.

60 "They tell us that we live in a great republic. Our institutions are democratic. We are a free people. This is too much, even as a joke. It is not a subject for levity; it is an exceedingly serious matter.

"To whom do the Wall Street Junkers in our country, to whom do they marry their daughters? After they have wrung the hundreds of millions from your sweat and from you- life blood, in times of war as well as peace, they invest these millions in the titles of broken-down aristocrats, and to buy counts of no-account. Are they satisfied to wed their daughters to honest workmen? To real democrats? They scour the markets of Europe for those who have titles and nothing else, and they swap their titles for money. And they

swap their matrimony for more money, while the plutocr
country scan the country with their magnifying glasses fo
of disloyalty. Patriotism is the last refuge of scoundrel
been the tyrant who wrapped himself in a cloak of religio
otism, or both. They would have you believe that the Soci
consists in the main of disloyalists and traitors. It is true
tain sense. We are disloyalists and traitors to the real
this nation. And the gang on the Pacific coast are tryin
Tom Mooney in spite of the protests of the civilized world

"I know Tom Mooney. He is an absolutely honest, inno
He had no more to do with the crime with which he w
than I have and if he ought to go to the gallows, so ought
is he guilty of? I will tell you. For years he has been fi
battles of the working class out on the Pacific coast. He
loyally in the service of the working class. They said, 'H
be bought; he refuses to be bribed. Therefore, he must
dered.'

"Let us review another bit of history. Do you remem
Francis J. Heney was shot down in the court-rooms of S
cisco? A committee of high-binders, composed largely of
of the Chamber of Commerce, absolutely controlled the cou
Francisco. They did not hesitate to commit murder to fur
murderous regime. Tom Mooney was the only representat
working class that they could not control. They owned the
they controlled the industries: they were the rulers and f
there was no appeal. And they were as infamous as any r
ruled in Germany or any other country. At last a grand
found that would indict them, and Francis J. Heney, who
selected by the National Administration to assist in the pr
this same gang controlled by the Chamber of Commerce,
hired a murderer to shoot Francis J. Heney down in the c
and he did. Francis J. Heney happened to live, but tha
fault of theirs. The same gang are also for the execution
Mooney. Every solitary one of them claims to be an ard
Everyone of them claims he is trying to make democracy sa
world. What humbug! What rot! What false preten
patriots are the men who have the courage to stand face to
fight them, and they call them disloyalists and traitors, a
be true. I want to take my place side by side with the traito
country.

"Why, the other day they sent a woman to Wichita pe
for ten years. Just think of sentencing a woman to the pe
for talking. The United States under the rule of the plu
the only country which would send a woman to the peniten
ten years for exercising the right to free speech. If this h
let them make the most of it. Let me review another bit o
I have known this woman for ten years. Personally I kno
if she were my own younger sister. She is a woman of
integrity. She is a woman of courage. She is a woman
peachable loyalty to the Socialist movement. She
61 into Dakota and made her speech, followed by pla
men in the service of the government, intent upo

passing her arrest, prosecution and conviction. She made a
speech and that speech was deliberately misrepresented for th
pose of securing her conviction. The only testimony was tha
hired witness. And thirty farmers who went to Bismarck to
in her favor, the judge refused to allow to testify. This would
incredible to me if I had not some experience of my own
Federal court. Who appoints the Federal courts? The p
Every solitary one of them holds his position through influenc
power of corporation capital. And when they go to the bench
go there not to serve the people, but to serve the interests wh
them. The other day, by a vote of five to four, they declare
Child Labor Law unconstitutional; a law secured after twenty
of education and agitation by all kinds of people, and yet by
jority of one, the Supreme Court, a body of corporation lawyers
just one solitary exception, wiped it from the Statute books, s
we may still continue to grind the blood of little children into
for the Junkers of Wall Street, and this in a country that is
fighting to make democracy safe for the world. These are no
atable truths to them. And they do not want you to hear them
that is why they brand us as traitors and disloyalists. If we
not traitors to the people, we would be eminently respectable ci
and ride in limousines. It is precisely because we are disloy
the traitors that we are not disloyal to the people of this count

"You have heard of Scott Nearing. He is the greatest teach
the United States. He was in the University of Pennsylvania
the Board of Trustees, composed of great capitalists, found h
teaching true economics to the students of that university, a
same forces said of a Judean carpenter nineteen centuries ago,
said of Jesus Christ, who was a workman and teacher, they
'He is preaching a false religion,' and his lineal descendants
'He is preaching false economics.' 'We cannot crucify him so w
starve him to death. We will make it impossible for him to
job. He is a dangerous man. He is teaching the truth.' The
is always unpalatable to these plutocrats, who make their livin
the sweat of the working class.

"They are afraid that we might contaminate you. You are
wards. They are their own guardians. They must see that
vicious doctrines do not reach your ears. What a mistake they
We ought to pass a resolution of thanks and send it to them.
are the people who want to seize our paper. And woe to the
who reads Socialist literature. He is a goner. I have known
thousand experiments but I have never known of a single experi
to escape it. Let me tell you about John Werk, of Milwaukee.
capitalists of Milwaukee said, 'John, we have got to find out
Socialism. John, you are a bright, young lawyer; we want y
find out all about Socialist literature.' After reading the Soc
volume, John was a full-fledged Socialist and has been fighting
us ever since.

"How short-sighted the ruling class is. The exploiter canno
beyond the end of his nose. He has just cunning enough to
what graft is and where it is but he has no vision. You know

is a great throbbing world that spreads out in all directions. Look at Rockefeller. Every move he makes hastens the coming of his doom. Every time the capitalist class tries to hinder the cause of Socialism they hurt themselves. Every time they strangle a Socialist newspaper they add a thousand voices to those which are aiding Socialism. The Socialist has a great idea. An expanding philosophy.

It is spreading over the face of the earth. It is useless to
62 resist it as it is to resist the rising sunrise. Can you see it?

If you cannot you are lacking in vision, in understanding. What a privilege it is to serve it. I have regretted a thousand times I can do so little for the movement that has done so much for me. The little that I am, the little that I am hoping to be, is due wholly to the Socialist movement. It gave me my ideas and my ideals, and I would not exchange one of them for all the Rockefeller blood-stained dollars. It taught me how to serve; a lesson to me of priceless value. It taught the ecstasy of the hand-clasp of the comrade. It made it possible for me to get in touch with you, to multiply myself over and over again; to open the avenue to spread out the glorious vistas; to know that I am kin with all that throbs, that becomes class conscious. Every man who toils, everyone of them, is my comrade. To serve them is the highest duty of my life. And in their service I can feel myself expanding. I rise to the stature of a man. Yes, my heart is attuned to yours. All of our hearts are melted into one great heart which throbs to the response of the people.

"Here I hear your heart beats responsive to the Bolsheviki of Russia. (Applause.) Yes, those heroic men and women, those unconquerable comrades, who have by their sacrifice added fresh lustre to the international movement. Those Russian comrades who have made greater sacrifices, who have suffered more, who have shed more heroic blood than any like number of men and women anywhere else on earth. They have led the first real convention of any democracy that ever drew breath. The first act of that memorable revolution was to proclaim a state of peace with an appeal not to the kings, not to the rulers, but an appeal to the people of all nations. They are the very breath of democracy; the quintessence of freedom. They made their appeal to the people of all nations, the Allies as well as the Central Powers, to send representatives to lay down terms of peace that should be lasting. Here was a fine opportunity to strike a blow to make democracy safe to the world. Was there any response to that noble appeal? And here let me say that appeal will be written in letters of gold in the history of the world. While it has been charged that the leader made a traitorous peace with Germany, let us consider this proposition briefly. At the time of the revolution, Russia had lost 4,000,000 of her soldiers. She was absolutely bankrupt. Her soldiers were without arms. This was what was bequeathed to the revolution by the Czar. For this condition, Leon Trotski was not responsible nor was the Bolshevik movement, but the czar was.

"When Leon Trotski came into power, he found the secret treaties made between the French government and the British government

and the Italian government which was to divide the territory of the Central Powers if the Allies were victorious, and these secret treaties have not been repudiated up to this time. Very little has been said about them in the American newspapers. This shows that the purpose of the Allies is exactly the purpose of the Central Powers.

"Wars have been waged for conquests, for plunder, and since the feudal ages along the Rhine, the feudal lords made war upon each other. They wanted to enlarge their domains, to increase their power and their wealth and so they declared war upon each other. But they did not go to war any more than the Wall Street Junkers go to war. Their predecessors declared the wars, but their miserable serfs fought the wars. The serfs believed that it was their patriotic duty to fall upon one another, to wage war upon one another. And that is war in a nutshell. The master class has always brought a war and the subject class has fought the battle. The master class has had all to gain and nothing to lose, and the subject class has all to lose and nothing to gain. They have always taught you that it is your patriotic duty to go to war and slaughter yourselves at their command. You have never had a voice in the war. The working class who make the sacrifices, who shed the blood, have never yet had a voice in declaring war. The ruling class has always made the war and made the peace.

"Yours not to question why,
Yours but to do and die.

"Another bit of history I want to review is that of Rose Pastor Stokes, another inspiring comrade. She had her millions of dollars. Her devotion to the cause is without all consideration of a financial or economic view. She went out to render service to the cause and they sent her to the penitentiary for ten years. What has she said? Nothing more than I have said here this afternoon. I want to say that if Rose Pastor Stokes is guilty, so am I. If she should be sent to the penitentiary for ten years, so ought I. What did she say? She said that a government could not serve both the profiteers and the employees of the profiteers. Roosevelt has said a thousand times more in his paper, the Kansas City Star. He would do everything possible to discredit Wilson's administration in order to give his party credit. The Republican and Democratic parties are all patriots this fall and they are going to combine to prevent the election of any disloyal Socialists. Do you know of any difference between them? One is in, the other is out. That is all the difference.

"Rose Pastor Stokes never said a word she did not have a right to utter, but her message opened the eyes of the people. That must be suppressed. That voice must be silenced. Her trial in a capitalist court was very farcical. What chance had she in a corporation court with a put-up jury and a corporation tool on the bench?

"If the war was over tomorrow, all the prison doors would open. They were just to silence these voices during the war, and the cases will be pending in court for months, perhaps years. The truth will make the people free and the truth must not be permitted to reach the people. The truth has always been dangerous to the rule of the

rogue, to the exploiters. And every time they make an attempt (to attack Socialism) they have ten thousand voices proclaiming that Socialism must live.

(Gets a glass of water from one on the platform.)

"Thank you, comrade. How good the touch of the hand of a comrade is and a sip of water furnished by a comrade! And how good it is to look into your faces this afternoon! You are really good looking to me this afternoon, I assure you. Your tribe has increased wonderfully since I came here. You used to be so few and so far between. When you struck a place the first thing to do was to try to find a Socialist. If he happened to be the only one in town, he now holds a place of honor in the hearts of all now living. Now you can't throw a stone in the dark without hitting a Socialist.

"I went to Warren some years ago. It happened the year President McKinley was assassinated. In common with all others, I deplored that tragic event. There is not a Socialist who would have been guilty of that crime. We do not attack individuals. We have no fight with individuals. We are capable of pitying those who hate us. We do not hate them. We know better. We would hand them a cup of water if they needed it. There is not any room in our hearts for hate, except for a system, a system in which it is impossible for one man to achieve a tremendous fortune while millions and millions struggle for the bare necessities of life. When McKinley was assassinated the ministers met at Portsmouth and passed a resolution that Debs was responsible for the death of McKinley. So all those ministers met and said I was not permitted to come into the city. I went there soon after, however.

64

"At Warren I was prepared to speak at the hall. I arrived in the evening and was no more than registered when I was ordered to leave the town, as I was not to be permitted to speak there. I sent word to the mayor that I would speak at Warren or I would leave Warren in a box. I went to the hall and the G. A. R. had a special meeting. In the full uniform they sat in the front seats. I went to the hall and made my speech. I told them who was responsible for the assassination. As long as there is misery, caused by robbery at the bottom, there will be assassination at the top. Well, I made the speech that night. I was back there the other day and the whole population of Warren was there to meet me.

"They who have had the courage to take their places at the front, they who have been true enough to speak the truth that is in them, who have espoused the cause of the suffering, struggling poor, who have upheld the cause of righteousness—they have made the history. They have paved the way to civilization. There are so many who remain on the popular side. They lack the fibre that endures. They are to be pitied and not treated with contempt. Those who have lived and endured that we should live on the earth today, had their bones broken on the wheel and were burned at the stake. We are under obligation to them because of what they suffered for us, and the only way we can cancel that obligation is by doing and seeking today for the interest of everyone who needs us.

"Every Socialist on the face of the earth is animated by the same principles. Everywhere they have the same noble idea, everywhere they are calling one another 'comrade', the noblest word that springs from the heart and soul of unity. The word 'comrade' is getting us into closer touch all along the battle line. They are waging the war of the working class against the ruling class of the world. They conquer difficulties; they grow stronger through them all.

"The heart of the international Socialist never beats a retreat. They are pressing forward here, there, everywhere, in all the zones that girdle this globe. These workers, these class-conscious workers, these children of honest toil are wiping out the boundary lines everywhere. They are proclaiming the glad tidings of the coming emancipation. Everywhere they are having their hearts attuned to the sacred cause; everywhere they are moving toward democracy, moving toward the sunrise, their faces aglow with the light of coming day. These are the men who must guide us in the greatest crisis the world has ever known. They are making history. They are bound upon the emancipating of the human race.

"They have been sufficient to themselves, pressing forward toward the heights. Do you wish to hasten the coming day? Join the Socialist party. Do not wait for the morrow. Come now. Enroll your name. Take your place where you belong. You cannot do your duty by proxy. You have got to do it yourself. You will have no occasion to blush. You will know what it is to be a man or a woman. You will lose nothing. You will gain everything. You are very apt to find something. You need to know that you are fit for something better than slavery and cannon fodder. You need to know that you are not created to work and to produce and to impoverish yourself. You need to know that you have a soul to develop. You need to know that it is for you to know something about literature and about science and about art. You need to get in touch with your comrades. You need to become conscious of your own interests. You need to know that as long as you are unorganized industrially and content you will remain exactly where you are.

You will be exploited. You will have to beg for a job and
65 you will get just enough to keep you in working order. And you will be looked down upon in contempt. If you would be respected you will have to begin by respecting yourself. I would not want to be in the predicament that poor fellow was in who heard a Socialist speech the other day and thought he ought to be a Socialist. The argument was invincible.

" 'Well, all he said was true.'

"But he finally concluded he might lose his job.

" 'I guess I can't afford to take the chance.'

"That night he slept alone. He was in trouble with his conscience. Such men always are. A Socialist always goes to bed with his self-respect and he can look the whole face in the world (the crowd laughs at the unconscious inversion of words) without a tremor.

"This poor fellow had a terrible dream and bounded from his bed and said: 'My God, there is nobody in this room!' And he was abso-

lutely right. No wonder he was terror-stricken. How would yo
like to sleep in a room with nobody in it?

"There is a great deal of hope for our comrades, Wagenknecht
Ruthenberg and Baker. Anybody can be nobody, but it takes
man to be somebody. Turn your back upon that corrupt Republica
party and that still more corrupt Democratic party, the gold-dus
twins of the ruling class. Get into a minority party that fights fo
a cause. Make that change. It will be the most important chang
you ever made in your life. You will thank me for having mad
the suggestion. It was a day of days for me. I passed from dark
ness to light.

"Great, seething, throbbing Russia was transferred from a lan
of seething darkness to a land of living light. There is somethin
splendid in the prompting of the heart to be true to yourself.

"You are in the crucible today, Mr. Socialist. You are going t
be tried, to what extent, no one knows. If you are of weak fibre
that weakness will be found out. We will have to bid good-bye t
you. You are not of the stuff of which revolutionists are made
The intellectuals, a good many of them, are all gone. That is n
loss to ourselves and no gain to others. In discussing intellectuals
let us answer this question: They have been with us for a long while
What will become of the rank and file as soon as the shepherds ceas
to guide us? 'You are my sheep.' In other words, you are m
mutton. They are ruled through the intellectuals in the capitalis
parties. If you are in the Republican or Democratic party, yo
will not be called upon to think. They ride in the carriages; yo
tramp in the mud. The capitalist system affects to have great regar
for intellect. We used to tell the capitalists sometime ago, 'Th
working class will rule'. We used to say, 'The people ought to ow
the railroads'. We advocated that twenty years ago. You have g
to have brains to operate railroads—and the other day McAdoo fire
all the brains. Have you noticed any change since the brains hav
gone? The railroads are now operated by hand.

"This determines how invaluable is the quality of capitalist brain
They have always given themselves credit for having superior brain
They have had all the brains and all the wealth. As to brain c
pacity, they are the most woeful people on the face of the earth. B
they know how to gouge. And they do it legally, for the reaso
that the class which can rob on a large scale has the power to co
trol courts.

"Among other things they tell you to cultivate war gardens. Go
ernment reports now show that 52% of the arable, tillable soil
held out of use by the profiteers. They do not allow others to cu
tivate it. They keep it idle, to enrich themselves. Thus,'
66 makes their land valuable. It is not the fault of the peopl
it is the fault of the landlords. And while we are upon th
subject, think about the landlord. The landlord is the great p
triot. He is fighting to make the world safe for democracy. H
it is who profits at the expense of the people under the pretense
being a great patriot. It is he whom you need to wipe from powe
It is he who diminishes your health and your liberty far more tha

the Prussian junker on the other side of the ocean. According to their own figures, they will tell you that we will have to export more wheat for the soldiers on the other side.

"They tell you there is a coal famine. The State of Indiana, where I live, is underlaid with coal. The coal is under our feet. All that we can possibly use. The miners are ready to enter the mines. Here is the machinery ready to increase the output to any desired capacity. Aye, only three weeks ago, the officers of the United Mine Workers issued a bulletin to the Labor Department of the United States that the 600,000 coal miners of the United States at this time when they tell us of a coal famine, are not permitted to work more than one-half time. I have seen the miners idle. In the meantime there is a scarcity of coal. They tell you to buy your coal now and they charge you three prices for it. Now, we have private ownership of the coal mines, and you ought to have if you vote for the Democratic or Republican ticket. The profiteers want a scarcity of coal. They make money out of a scarcity of coal. The operators say there are no cars and the railroads say there is no coal. And between them they defraud the people. Here is the difficulty. Here are the cars. The Socialist says, 'Take possession of the mines. Set the miners at work. Give the miner all he produces.' The miner works three hundred feet in the earth. The owner of the mine lives in New York or Vienna or Paris. He does not have to do a bit of work. He owns the tools, the machinery and the miner. And that is what you do every time you vote the Democratic or Republican ticket. Let the miner mine the coal and then he gets the full value of his toil. He can then provide himself and his wife and his children with a good home (and plenty to eat). So they continue to charge three prices for coal. If that is the thing you want, you will get it to your heart's content.

"A change is needed, a change of system from despotism to democracy, a change from slavery to freedom; a change from brutehood to brotherhood. To accomplish this you have got to organize, and to organize not along the zig-zag lines laid down by Sam Gompers who, through all of his career, has been on the side of the capitalist class. You never hear the capitalist papers speak of him except in praise. Gompers was always conservative. * * * by solving the labor situation by the aid of Elihu Root and Andy Carnegie with whom he drank wine and smoked scab cigars.

"Few men have the courage to say a decent word in favor of the I. W. W. I have. (Here several in the crowd yelled, 'So have I.')

"I have a great respect for the I. W. W. There has been a pamphlet issued called, 'The Truth about the I. W. W.' After long investigation by five men who are not Socialists: John Graham Brooks, Harvard University, Mr. Bruers, government investigator; (other names not noted).

"These men investigated the I. W. W. They have examined its doings, beginning at Bisbee, Arizona, where the officers deported five hundred. It is only necessary to label a man, 'I. W. W.' to lynch him. Just think of the state of mind for which the capitalist press is responsible.

"When Wall Street yells war, you may rest assured every
67 pulpit in the land will yell war. The press and the pulpit have in every age and every nation been on the side of the exploiting class and the ruling class. That's why the I. W. W. is infamous.

"The I. W. W. in its career has never committed as much violence against the ruling class as the ruling class has committed against the people. The trial at Chicago is now on and they have not proven violence in a single solitary case. And yet, one hundred and twelve have been on trial for months and months without a shade of evidence. And this is all in its favor. And for this and many other reasons, the I. W. W. is fighting the fight of the bottom dog. For the very reason that Gompers is glorified by Wall Street, Bill Haywood is despised by Wall Street. What you need is greater organization.

"In the shop is where the industrial union has its beginning. Organize. Define your capacity. Act together. And when you organize industrially you will soon learn that you can manage industry as well as operate industry. You will find that you do not have to take work from them; you give them work to do. You can dispense with them. You ought to own your own tools. Organize industrially. Make the organization complete. Unite in the Socialist party. Vote as you organize. Stand with your party. See that that party improves the working class, especially this year when the forces will clash as they have never clashed before. Take your place in the ranks. Help to inspire the weak and strengthen the faltering. Then, when we vote together we will develop the supreme power of the one class that can bring peace to the world. We will transfer the title deeds of the railroads, of the telegraphs, the mines and the mills. We will transfer them to the people. We will take possession in the name of the people. We will have industrial, social and political democracy. This change will be universal.

"And now for all of us to do our duty. The call is ringing in your ears. Do not worry over the charge of treason to your masters, but be concerned about the treason that involves yourself. This year we are going to sweep into power and in this nation and we are going to destroy capitalistic institutions and re-create them. * * * The world of capital is collapsing. We need industrial builders. We Socialists are the builders of the world that is to be. We are inviting you this afternoon. Join and it will help you.

"In due course of time we will proclaim the emancipation of the brotherhood of all mankind."

68 And the Grand Jurors further present and find that at the time and place aforesaid, and in the manner and under the circumstances aforesaid, when he, the said defendant, so uttered and published certain disloyal language about the form of the Government of the United States, and the Constitution of the United States and the military and naval forces of the United States, set out in words and substance as aforesaid, he, the said defendant did so wil

fully; contrary to the form of the Statute of the United States in such case made and provided, and against the peace and dignity of the United States.

69 *Sixth Count.*

Sec. 3, Title 1, Act of June 15, 1917, as amended by Act of May 16, 1918 (Espionage).

And the Grand Jurors aforesaid, upon their oaths aforesaid, do further present and find that the said Eugene V. Debs, hereinafter designated the defendant, late of the Division and District aforesaid, heretofore, towit, on or about the 16th day of June, 1918, at the City of Canton, County of Stark, in the State of Ohio, in the Division and District aforesaid, and within the jurisdiction of this court; the United States of America being then and there at war with the Imperial German Government pursuant to a joint resolution of the Congress of the United States, theretofore, adopted, and which resolution was approved by the President of the United States on the 6th day of April, A. D. 1917, did then and there unlawfully, wilfully and feloniously utter and publish certain language intended to bring the form of Government of the United States and the Constitution of the United States, and the military and naval forces of the United States, and the Flag of the United States, and the uniform of the Army and Navy of the United States, into contempt, scorn, contumely and disrepute, that is to say, he, the said defendant, did utter and publish certain language, in a public speech and address, at the time and place aforesaid, to a certain assembly of people, among whom were Clyde R. Miller, Dennis R. Smith, Virgil Steiner, A. P. Owen, and divers other persons, whose names are to the Grand Jurors unknown, and if known, are too numerous to mention herein, and for that reason are omitted, which said certain language in words and substance, is as follows:

70 "Comrades, Friends and Fellow-Workers:—

"For this very cordial greeting, this very hearty reception, I thank you all with the fullest appreciation of your interest in and your devotion to the cause of which I am to speak to you this afternoon. To speak for labor, to plead the cause of the men and women and children who toil, to serve the working class, has always been to me a high privilege, a duty of love.

"I have just returned from a visit from yonder (pointing to workhouse) where three of our most loyal comrades are paying the penalty for their devotion to the cause of the working class. They have come to realize, as many of us have, that it is extremely dangerous to exercise the constitutional right of free speech in a country fighting to make democracy safe for the world. I realize in speaking to you this afternoon that there are certain limitations placed upon the right of free speech. I must be extremely careful, prudent, as to what I say, and even more careful and prudent as to how I say it. I may not be able to say all I think, but I am not going to say any-

thing that I do not think. And I would rather a thousand times a free soul in jail than a sycophant or coward on the streets. T may put those boys in jail and some of the rest of us in jail, they cannot put the Socialist movement in jail. Those prison separate their bodies from ours, but their souls are here this af noon. They are simply paying the penalty that all men have in all of the ages of history for standing erect and seeking to p the way for better conditions for mankind.

"If it had not been for the men and women who, in the p have had the moral courage to go to jail, we would still be in jungles.

"This assembly is exceedingly good to look upon. I wish it w possible to give you what you are giving me this afternoon. W I say here amounts to but little. What I see here is exceedingly portant. You workers here in Ohio, enlisted in the greatest ca ever organized in the interests of your class, are making history to in the face of threatening trouble of all kinds, history that is go to be read with profound interest by the coming generation. Th is but one thing that you have to be concerned about and that is you keep four-square with the principles of the international Soc istic movement. It is only when you begin to compromise trouble begins. So far as I am concerned, it does not matter w others may say or think or do, as long as I am sure that I am ri with myself and the cause.

"There are so many who seek refuge in the popular side of a g question. I am not of that number. As a Socialist I have long si learned how to stand alone.

"For the last month I have been traveling over the Hoosier st and let me say that in all my connections with the Socialist mo ment, I have never seen such enthusiasm, such unity of movem such a promising outlook as there is today. Notwithstanding statement published by the capitalist press that our leaders had serted, I wish to say for myself I never had very much faith leaders anyway. I am willing to be charged with almost anyth rather than be charged with being a leader. I am suspicious leaders, especially all the intellectual file. Give me the rank and every day in the week. Go to the City of Washington and con the files there and you will find that the corporation lawyers, m bers of congress and misrepresentatives of the masses—all of th claim that they have risen from the ranks. I am so glad tha cannot make that claim for myself. When I rise, it wil
71 with the ranks and not from the ranks.

"When I came away from Indiana, the comrades s 'When you cross the line, tell those comrades that we are on and doing duty and are going to make a record this fall that be heard around the world.'

"The Socialists of Ohio are very much alive this year. The p has been 'killed' this year, which accounts for its extraordinary ac ity. This naturally helps a party. The oftener it is killed, the n energetic and more powerful they become. We have been rea capitalist newspapers lately, and what a capacity they have for ly

They know all about the Socialist party except what is true. Only the other day, they took an article that I had written and most of you have read, and made it appear that I had undergone a marvelous transformation. I had suddenly come to my senses, had ceased to be a wicked Socialist and had become a respectable Socialist, a patriotic Socialist—as if I had ever been anything else. What was the purpose of this deliberate misrepresentation? It is so self-evident that it was against itself. It was to sow dissatisfaction among our ranks, so that we would pit ourselves against each other to our mutual undoing. But Socialists were not born yesterday. They know how to read capitalists' newspapers, and to believe exactly the opposite of what they read.

"Why should a Socialist be discouraged on the eve of the greatest triumph of all the history of the Socialist movement? It is true that these are anxious, trying days for us all, testing those who are upholding the banner of the working class in the greatest struggle the world has ever known against the exploiters of the world; a time in which the weak, the cowardly, will falter and fail and desert. They lack the fibre to endure the revolutionary test. They fall away. They disappear as if they had never been.

"On the other hand, they who are animated with the unconquerable spirit of the Social revolution, they who have the moral courage to stand erect, to assert their convictions, to stand by them, to go to jail or to hell for them—they are writing their names in this crucial hour, they are writing their names in fadeless letters in the history of mankind. Those boys over yonder, those comrades of ours—and how I love them—aye, they are our younger brothers, their names are seared in our souls.

"I am proud of them. They are there for us and we are here for them. Their lips, though temporarily mute, are more eloquent than ever before, and their voices, though silent, are heard around the world.

"Are we opposed to Prussian militarism? Why, we have been fighting it since the day the Socialist movement was born and we are going to continue to fight it today and until it is wiped from the face of the earth. Between us there is no truce, no compromise, but before I proceed along this line, let me recall a little history in which we are all interested.

"In 1869, that grand old warrior of the Socialist revolution, the elder Liebknecht, was arrested and sent to prison for three months because of his war as a Socialist on the Kaiser and the Junkers that ruled Germany. In the meantime, the Franco-Prussian war broke out. Liebknecht and Badel were the Socialist members of the Reichstag. They were the only two to protest against the taking of Alsace-Lorraine from France and giving it to Germany. They were taken from the Reichstag and sent to prison for two years. For four years previous to this, they had been fighting the Kaiser and the Junkers of Germany. They have fought them from that
72 day to this. Thousands of them have languished in the prisons for war on the ruling classes of that country.

"Let us come down the line. At the close of Roosevelt's term as President, he went over to Africa to make war on som ancestors. You remember at the close of his expedition, he all of the capitals of Europe and he was wined, dined, dignif glorified by the Kaiser, kings and czars of the old world. He Potsdam while the Kaiser was there and, according to the published in the American newspapers, he and the Kaiser we on the most intimate terms. They were hilariously intima each other. They slapped each other on the back. After R had effused over the German troops, he remarked to the Ka I had that kind of an army, I would conquer the world.' H the Kaiser as well as he knows him now and yet he permitte self to be entertained by the Beast of Berlin. He was cheek with the Beast of Berlin. And while he was being entertai the Beast of Berlin, that same Kaiser was putting Socialist in jail for fighting Kaiserism. Roosevelt was a guest of h the Kaiser while the Socialists were in the jail for fighting the Who was fighting against the Kaiser? Roosevelt? No. It Socialists.

"When the newspapers reported that Kaiser Wilhelm a President Theodore Roosevelt recognized each other at sight first touch, they make admission that they are fatal to the cha of democracy. They admitted that their ideas and ideals wer the same. While Theodore Roosevelt, who is now the great pion of democracy, the arch foe of autocracy, what business as the guest of honor of the Kaiser and was it not pretty stron that he was a Kaiser at heart? After being the guest of the he wants us to send 10,000,000 men to murder the Kaiser, to his former friend and pal. And yet he is the patriot and we traitors. I challenge you to find any Socialist who was ever th of the Kaiser, except as one of his prison wards.

"In 1902, Prince Henry paid a visit to this country. Do member him? I do. Exceedingly well. Prince Henry brother of King Wilhelm. He is an autocrat; an aristocrat; a of Junkers. He came over in 1902 as the representative of Wilhelm. He was received by Congress, by several State legis among others the State legislature of Massachusetts, then in He was invited there by the members of the legislature. An Prince Henry came there, there was one member who kept respect, put on his hat, and as Prince Henry walked in, he out, and that man was James F. Carey, and all the rest of th sentatives joined in doing honor in the most servile spirit to th representative of autocracy, and Carey was the only one who meeting.

"You will remember history along the same line. I hav tinct recollection. It occurred just 15 years ago. When Henry came here, all of our plutocracy, living along Fifth threw their places' doors wide open and received him with ope They got down on their stomachs and vied with each other the boots of Prince Henry, the representative of the Beast of

"Do not imagine for one moment that all the plutocr

Junkers are all in Germany; we have them here in our own country, and these want to keep our eyes focused upon the Junkers in Germany so we won't see those within our own border. I have no earthly use for the Junkers of Germany and not one particle more use for the Junkers in the United States.

73 "They tell us that we live in a great republic. Our institutions are democratic. We are a free people. This is too much, even as a joke. It is not a subject for levity; it is an exceedingly serious matter.

"To whom do the Wall Street Junkers in our country, to whom do they marry their daughters? After they have wrung the hundreds of millions from your sweat and from your life blood, in times of war as well as peace, they invest these millions in the titles of broken-down aristocrats, and to buy counts of no-account. Are they satisfied to wed their daughters to honest workmen? To real democrats? They scour the markets of Europe for those who have titles and nothing else, and they swap their titles for money. And they swap their matrimony for more money, while the plutocrats in this country scan the country with their magnifying glasses for evidence of disloyalty. Patriotism is the last refuge of scoundrels. It has been the tyrant who wrapped himself in a cloak of religion or patriotism, or both. They would have you believe that the Socialist party consists in the main of disloyalists and traitors. It is true, in a certain sense. We are disloyalists and traitors to the real traitors of this nation. And the gang on the Pacific coast are trying to hang Tom Mooney in spite of the protests of the civilized world.

"I know Tom Mooney. He is an absolutely honest, innocent man. He had no more to do with the crime with which he was charged than I have and if he ought to go to the gallows, so ought I. What is he guilty of? I will tell you. For years he has been fighting the battles of the working class out on the Pacific coast. He continued loyally in the service of the working class. They said, 'He cannot be bought; he refuses to be bribed. Therefore, he must be murdered.'

"Let us review another bit of history. Do you remember when Francis J. Heney was shot down in the court-rooms of San Francisco? A committee of high-binders, composed largely of members of the Chamber of Commerce, absolutely controlled the courts of San Francisco. They did not hesitate to commit murder to further their murderous regime. Tom Mooney was the only representative of the working class that they could not control. They owned the railways; they controlled the industries; they were the rulers and from them there was no appeal. And they were as infamous as any rulers that ruled in Germany or any other country. At last a grand jury was found that would indict them, and Francis J. Heney, who had been selected by the National Administration to assist in the prosecution, this same gang controlled by the Chamber of Commerce, this gang hired a murderer to shoot Francis J. Heney down in the court-room and he did. Francis J. Heney happened to live, but that was no fault of theirs. The same gang are also for the execution of Tom Mooney. Every solitary one of them claims to be an arch-patriot.

Everyone of them claims he is trying to make democracy
world. What humbug! What rot! What false prete
patriots are the men who have the courage to stand face
fight them, and they call them disloyalists and traitors,
be true, I want to take my place side by side with the trai
country.

"Why, the other day they sent a woman to Wichita
for ten years. Just think of sentencing a woman to the
for talking. The United States under the rule of the
the only country which would send a woman to the penit
ten years for exercising the right to free speech. If this
let them make the most of it. Let me review another bit
I have known this woman for ten years. Personally I k
if she were my own younger sister. She is a woman
integrity. She is a woman of courage. She is a woma
peachable loyalty to the Socialist movement. Sh
74 into Dakota and made her speech, followed by
men in the service of the government, intent u
passing her arrest, prosecution and conviction. She mad
speech and that speech was deliberately misrepresented f
pose of securing her conviction. The only testimony wa
hired witness. And thirty farmers who went to Bismarc
in her favor, the judge refused to allow to testify. This
incredible to me if I had not some experience of my
Federal court. Who appoints the Federal courts? T
Every solitary one of them holds his position through in
power of corporation capital. And when they go to the
go there not to serve the people, but to serve the interest
them. The other day, by a vote of five to four, they d
Child Labor Law unconstitutional: a law secured after tw
of education and agitation by all kinds of people, and ve
jority of one, the Supreme Court, a body of corporation la
just one solitary exception, wiped it from the Statute bo
we may still continue to grind the blood of little children
from the Junkers of Wall Street, and this in a country
fighting to make democracy safe for the world. These a
atable truths to them. And they do not want you to hea
that is why they brand us as traitors and disloyalists.
not traitors to the people, we would be eminently respecta
and ride in limousines. It is precisely because we are
the traitors that we are not disloyal to the people of this

"You have heard of Scott Nearing. He is the greatest
the United States. He was in the University of Pennsyl
the Board of Trustees, composed of great capitalists, fou
teaching true economics to the students of that univers
same forces said of a Judean carpenter nineteen centuries
said of Jesus Christ, who was a workman and teacher,
'He is preaching a false religion,' and his lineal descen
'He is preaching false economics.' 'We cannot crucify hi
starve him to death. We will make it impossible for hi
job. He is a dangerous man. He is teaching the truth.'

is always unpalatable to these plutocrats, who make their living
the sweat of the working class.

"They are afraid that we might contaminate you. You are th
wards. They are their own guardians. They must see that our
cious doctrines do not reach your ears. What a mistake they ma
We ought to pass a resolution of thanks and send it to them. Th
are the people who want to seize our paper. And woe to the n
who reads Socialist literature. He is a goner. I have known o
thousand experiments but I have never known of a single experim
to escape it. Let me tell you about John Werk, of Milwaukee. T
capitalists of Milwaukee said to John, "We have got to find out ab
Socialism. John, you are a bright, young lawyer; we want you
find out all about Socialist literature.' After reading the Socia
volume, John was a full-fledged Socialist and has been fighting
us ever since.

"How short-sighted the ruling class is. The exploiter cannot
beyond the end of his nose. He has just cunning enough to kn
what graft is and where it is but he has no vision. You know t
is a great throbbing world that spreads out in all directions. Le
at Rockefeller. Every move he makes hastens the coming of
doom. Every time the capitalist class tries to hinder the cause
Socialism they hurt themselves. Every time they strangle a Socia
newspaper they add a thousand voices to those which are aiding
cialism. The Socialist has a great idea. An expanding philosop
It is spreading over the face of the earth. It is useless
75 resist it as it is to resist the rising sunrise. Can you see
If you cannot you are lacking in vision, in understandi
What a privilege it is to serve it. I have regretted a thousand ti
I can do so little for the movement that has done so much for
The little that I am, the little that I am hoping to be, is due wh
to the Socialist movement. It gave me my ideas and my ideals,
I would not exchange one of them for all the Rockefeller blo
stained dollars. It taught me how to serve; a lesson to me of pr
less value. It taught the ecstasy of the hand-clasp of the comra
It made it possible for me to get in touch with you, to multiply
self over and over again; to open the avenue to spread out the gl
ous vistas; to know that I am kin with all that throbs, that becon
class conscious. Every man who toils, everyone of them, is
comrade. To serve them is the highest duty of my life. And
their service I can feel myself expanding. I rise to the stature
man. Yes, my heart is attuned to yours. All of our hearts
melted into one great heart which throbs to the response of
people.

"Here I hear your heart beats responsive to the Bolsheviki
Russia. (Applause.) Yes, those heroic men and women, th
unconquerable comrades, who have by their sacrifice added fr
lustre to the international movement. Those Russian comrades
have made greater sacrifices, who have suffered more, who have s
more heroic blood than any like number of men and women a
where else on earth. They have led the first real convention of
democracy that ever drew breath. The first act of that memora

revolution was to proclaim a state of peace with an appeal not to the kings, not to the rulers, but an appeal to the people of all nations. They are the very breath of democracy; the quintessence of freedom. They made their appeal to the people of all nations, the Allies as well as the Central Powers, to send representatives to lay down terms of peace that should be lasting. Here was a fine opportunity to strike a blow to make democracy safe to the world. Was there any response to that noble appeal? And here let me say that appeal will be written in letters of gold in the history of the world. While it has been charged that the leader made a traitorous peace with Germany, let us consider this proposition briefly. At the time of the revolution, Russia had lost 4,000,000 of her soldiers. She was absolutely bankrupt. Her soldiers were without arms. This was what was bequeathed to the revolution by the Czar. For this condition, Leon Trotski was not responsible nor was the Bolshevik movement, but the czar was.

"When Leon Trotski came into power, he found the secret treaties made between the French government and the British government and the Italian government which was to divide the territory of the Central Powers if the Allies were victorious, and these secret treaties have not been repudiated up to this time. Very little has been said about them in the American newspapers. This shows that the purpose of the Allies is exactly the purpose of the Central Powers.

"Wars have been waged for conquests, for plunder, and since the feudal ages along the Rhine, the feudal lords made war upon each other. They wanted to enlarge their domains, to increase their power and their wealth and so they declared war upon each other. But they did not go to war any more than the Wall Street Junkers go to war. Their predecessors declared the wars, but their miserable serfs fought the wars. The serfs believed that it was their patriotic duty to fall upon one another, to wage war upon one another. And that is war in a nutshell. The master class has always brought a war and the subject class has fought the battle. The master class has had all to gain and nothing to lose, and the subject class
76 has had all to lose and nothing to gain. They have always taught you that it is your patriotic duty to go to war and slaughter yourselves at their command. You have never had a voice in the war. The working class, who make the sacrifices, who shed the blood, have never yet had a voice in declaring war. The ruling class has always made the war and made the peace.

"Yours not to question why,
Yours but to do and die.

"Another bit of history I want to review is that of Rose Pastor Stokes, another inspiring comrade. She had her millions of dollars. Her devotion to the cause is without all consideration of a financial or economic view. She went out to render service to the cause and they sent her to the penitentiary for ten years. What has she said? Nothing more than I have said here this afternoon. I want to say that if Rose Pastor Stokes is guilty, so am I. If she should be sent to the penitentiary for ten years, so ought I. What did she

say? She said that a government could not serve both the profiteers and the employees of the profiteers. Roosevelt has said a thousand times more in his paper, the Kansas City Star. He would do everything possible to discredit Wilson's administration in order to give his party credit. The Republican and Democratic parties are all patriots this fall and they are going to combine to prevent the election of any disloyal Socialists. Do you know of any difference between them? One is in, the other is out. That is all the difference.

"Rose Pastor Stokes never said a word she did not have a right to utter, but her message opened the eyes of the people. That must be suppressed. That voice must be silenced. Her trial in a capitalist court was very farci-al. What chance had she in a corporation court with a put-up jury and a corporation tool on the bench?

"If the war was over tomorrow, all the prison doors would open. They were just to silence these voices during the war, and the cases will be pending in court for months, perhaps years. The truth will make the people free and the truth must not be permitted to reach the people. The truth has always been dangerous to the rule of the rogue, to the exploiters. And every time they make an attempt (to attack Socialism) they have ten thousand voices proclaiming that Socialism must live.

(Gets a glass of water from one on the platform.)

"Thank you, comrade. How good the touch of the hand of a comrade is and a sip of water furnished by a comrade! And how good it is to look into your faces this afternoon! You are really good looking to me this afternoon, I assure you. Your tribe has increased wonderfully since I came here. You used to be so few and so far between. When you struck a place the first thing to do was to try to find a Socialist. If he happened to be the only one in town, he now holds a place of honor in the hearts of all now living. Now you can't throw a stone in the dark without hitting a Socialist.

"I went to Warren some years ago. It happened the year President McKinley was assassinated. In common with all others, I deplored that tragic event. There is not a Socialist who would have been guilty of that crime. We do not attack individuals. We have no fight with individuals. We are capable of pitying those who hate us. We do not hate them. We know better. We would hand them a cup of water if they needed it. There is not any room in our hearts for hate, except for a system, a system in which it is impossible for one man to achieve a tremendous fortune while millions and millions struggle for the bare necessities of life. When McKinley was assassinated the ministers met at Portsmouth and passed a resolution that Debs was responsible for the death of McKinley. So all those ministers met and said I was not permitted to come into the city. I went there soon after, however.

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"At Warren I was prepared to speak at the hall. I arrived in the evening and was no more than registered when I was ordered to leave the town, as I was not to be permitted to speak there. I sent word to the mayor that I would speak at Warren or I would leave

Warren in a box. I went to the hall and the G. A. R. had a special meeting. In the full uniform they sat in the front seats. I went to the hall and made my speech. I told them who was responsible for the assassination. As long as there is misery, caused by robbery at the bottom, there will be assassination at the top. Well, I made the speech that night. I was back there the other day and the whole population of Warren was there to meet me.

"They who have had the courage to take their places at the front, they who have been true enough to speak the truth that is in them, who have espoused the cause of the suffering, struggling poor, who have upheld the cause of righteousness—they have made the history. They have paved the way to civilization. There are so many who remain on the popular side. They lack the fibre that endures. They are to be pitied and not treated with contempt. Those who have lived and endured that we should live on the earth today, had their bones broken on the wheel and were burned at the stake. We are under obligation to them because of what they suffered for us, and the only way we can cancel that obligation is by doing and seeking today for the interest of everyone who needs us.

"Every Socialist on the face of the earth is animated by the same principles. Everywhere they have the same noble idea, everywhere they are calling one another 'comrade', the noblest word that springs from the heart and soul of unity. The word 'comrade' is getting us into closer touch all along the battle line. They are waging the war on the working class against the ruling class of the world. They conquer difficulties; they grow stronger through them all.

"The heart of the international Socialist never beats a retreat. They are pressing forward here, there, everywhere, in all the zones that girdle this globe. These workers, these class-conscious workers, these children of honest toil are wiping out the boundary lines everywhere. They are proclaiming the glad tidings of the coming emancipation. Everywhere they are having their hearts attuned to the sacred cause; everywhere they are moving toward democracy, moving toward the sunrise, their faces aglow with the light of coming day. These are the men who must guide us in the greatest crisis the world has ever known. They are making history. They are bound upon the emancipating of the human race.

"They have been sufficient to themselves, pressing forward toward the heights. Do you wish to hasten the coming day? Join the Socialist party. Do not wait for the morrow. Come now. Enroll your name. Take your place where you belong. You cannot do your duty by proxy. You have got to do it yourself. You will have no occasion to blush. You will know what it is to be a man or a woman. You will lose nothing. You will gain everything. You are very apt to find something. You need to know that you are fit for something better than slavery and cannon fodder. You need to know that you are not created to work and to produce and to impoverish yourself. You need to know that you have a soul to develop. You need to know that it is for you to know something about literature and about science and about art. You need to get in touch with your comrades. You need to become conscious of your

own interests. You need to know that as long as you are unorganized industrially and content you will remain exactly where you are. You will be exploited. You will have to beg for a job and
78 you will get just enough to keep you in working order. And you will be looked down upon in contempt. If you would be respected you will have to begin by respecting yourself. I would not want to be in the predicament that poor fellow was in who heard a Socialist speech the other day and thought he ought to be a Socialist. The argument was invincible.

"'Well, all he said was true.'

"But he finally concluded he might lose his job.

"'I guess I can't afford to take the chance.'

"That night he slept alone. He was in trouble with his conscience. Such men always are. A Socialist always goes to bed with his self-respect and he can look the whole face in the world (the crowd laughs at the unconscious inversion of words) without a tremor.

"This poor fellow had a terrible dream and bounded from his bed and said: 'My God, there is nobody in this room!' And he was absolutely right. No wonder he was terror-stricken. How would you like to sleep in a room with nobody in it?

"There is a great deal of hope for our comrades, Wagenknecht, Ruthenberg and Baker. Anybody can be nobody, but it takes a man to be somebody. Turn your back upon that corrupt Republican party and that still more corrupt Democratic party, the gold-dust twins of the ruling class. Get into a minority party that fights for a cause. Make that change. It will be the most important change you ever made in your life. You will thank me for having made the suggestion. It was a day of days for me. I passed from darkness to light.

"Great, seething, throbbing Russia was transferred from a land of seething darkness to a land of living light. There is something splendid in the prompting of the heart to be true to yourself.

"You are in the crucible today, Mr. Socialist. You are going to be tried, to what extent, no one knows. If you are of weak fibre, that weakness will be found out. We will have to bid good-bye to you. You are not of the stuff of which revolutionists are made. The intellectuals, a good many of them, are all gone. That is no loss to ourselves and no gain to others. In discussing intellectuals, let us answer this question: They have been with us for a long while. What will become of the rank and file as soon as the shepherds cease to guide us? 'You are my sheep.' In other words, you are my mutton. They are ruled through the intellectuals in the capitalist parties. If you are in the Republican or Democratic party, you will not be called upon to think. They ride in the carriages; you tramp in the mud. The capitalist system affects to have great regard for intellect. We used to tell the capitalists sometime ago, 'The working class will rule'. We used to say, 'The people ought to own the railroads'. We advocated that twenty years ago. You have got to have brains to operate railroads—and the other day McAdoo fired all the brains. Have you noticed any change since the brains have gone? The railroads are now operated by hand.

"This determines how invaluable is the quality of capitalist brain
They have always given themselves credit for having superior brain
They have had all the brains and all the wealth. As to brain c
pacity, they are the most woeful people on the face of the earth. B
they know how to gouge. And they do it legally, for the reas
that the class which can rob on a large scale has the power to co
trol courts.

"Among other things they tell you to cultivate war gardens. Go
ernment reports now show that 52% of the arable, tillable soil
held out of use by the profiteers. They do not allow others to cu
tivate it. They keep it idle, to enrich themselves. Thus,
79 makes their land valuable. It is not the fault of the peopl
it is the fault of the landlords. And while we are upon t
subject, think about the landlord. The landlord is the great p
triot. He is fighting to make the world safe for democracy. H
it is who profits at the expense of the people under the pretense
being a great patriot. It is he whom you need to wipe from pow
It is he who diminishes your health and your liberty far more th
the Prussian junker on the other side of the ocean. According
their own figures, they will tell you that we will have to export mo
wheat for the soldiers on the other side.

"They tell you there is a coal famine. The State of Indian
where I live, is underlaid with coal. The coal is under our feet.
that we can possibly use. The miners are ready to enter the min
Here is the machinery ready to increase the output to any desir
capacity. Aye, only three weeks ago, the officers of the United Mi
Workers issued a bulletin to the Labor Department of the Unit
States that the 600,000 coal miners of the United States at this ti
when they tell us of a coal famine, are not permitted to work mo
than one-half time. I have seen the miners idle. In the mea
time there is a scarcity of coal. They tell you to buy your coal n
and they charge you three prices for it. Now, we have private ow
ership of the coal mines, and you ought to have if you vote for t
Democratic or Republican ticket. The profiteers want a scarcity
coal. They make money out of a scarcity of coal. The operat
say there are no cars and the railroads say there is no coal. A
between them they defraud the people. Here is the difficulty. H
are the cars. The Socialist says, 'Take possession of the mines.
the miners at work. Give the miner all he produces.' The min
works three hundred feet in the earth. The owner of the mine li
in New York or Vienna or Paris. He does not have to do a bit
work. He owns the tools, the machinery and the miner. And th
is what you do every time you vote the Democratic or Republic
ticket. Let the miner mine the coal and then he gets the full va
of his toil. He can then provide himself and his wife and his ch
dren with a good home (and plenty to eat). So they continue
charge three prices for coal. If that is the thing you want, you v
get it to your heart's content.

"A change is needed, a change of system from despotism to
mocracy, a change from slavery to freedom; a change from bru
hood to brotherhood. To accomplish this you have got to organi

and to organize not along the zig-zag lines laid down by Sam Gompers who, through all of his career, has been on the side of the capitalist class. You never hear the capitalist papers speak of him except in praise. Gompers was always conservative, * * * by solving the labor situation by the aid of Elihu Root and Andy Carnegie with whom he drank wine and smoked scab cigars.

"Few men have the courage to say a decent word in favor of the I. W. W. I have. (Here several in the crowd yelled, 'So have I.')

"I have a great respect for the I. W. W. There has been a pamphlet issued called, 'The Truth about the I. W. W.' After long investigation by five men who are not Socialists: John Graham Brooks, Harvard University, Mr. Bruers, government investigator; (other names not noted).

"These men investigated the I. W. W. They have examined its doings, beginning at Bisbee, Arizona, where the officers deported five hundred. Just think of the state of mind for which the capitalist press is responsible.

"When Wall Street yells war, you may rest assured every
80 pulpit in the land will yell war. The press and the pulpit have in every age and every nation been on the side of the exploiting class and the ruling class. That's why the I. W. W. is infamous.

"The I. W. W. in its career has never committed as much violence against the ruling class as the ruling class has committed against the people. The trial at Chicago is now on and they have not proven violence in a single solitary case. And yet, one hundred and twelve have been on trial for months and months without a shade of evidence. And this is all in its favor. And for this and many other reasons, the I. W. W. is fighting the fight of the bottom dog. For the very reason that Gompers is glorified by Wall Street, Bill Haywood is despised by Wall Street. What you need is greater organization.

"In the shop is where the industrial union has its beginning. Organize. Define your capacity. Act together. And when you organize industrially you will soon learn that you can manage industry as well as operate industry. You will find that you do not have to take work from them: you give them work to do. You can dispense with them. You ought to own your own tools. Organize industrially. Make the organization complete. Unite in the Socialist party. Vote as you organize. Stand with your party. See that that party improves the working class, especially this year when the forces will clash as they have never clashed before. Take your place in the ranks. Help to inspire the weak and strengthen the faltering. Then, when we vote together we will develop the supreme power of the one class that can bring peace to the world. We will transfer the title deeds of the railroads, of the telegraphs, the mines and the mills. We will transfer them to the people. We will take possession in the name of the people. We will have industrial, social and political democracy. This change will be universal.

"And now for all of us to do our duty. The call is ringing in your ears. Do not worry over the charge of treason to your mas-

ters, but be concerned about the treason that involves yourself. Th
year we are going to sweep into power and in this nation and we a
going to destroy capitalistic institutions and re-create them. * *
The world of capital is collapsing. We need industrial builder
We Socialists are the builders of the world that is to be. We are i
viting you this afternoon. Join and it will help you.

"In due course of time we will proclaim the emancipation of t
brotherhood of all mankind."

81 And the Grand Jurors further present and find that
the time and place aforesaid, and in the manner and und
the circumstances aforesaid, when he, the said defendant, so utter
and published said language as set forth herein, he, the said d
fendant did so, wilfully, and with the intent to bring the form
Government of the United States and the Constitution of the Unit
States, and the military and naval forces of the United States, a
the Flag of the United States, and the uniform of the Army a
Navy of the United States into contempt, scorn, contumely and d
repute; contrary to the form of the Statute of the United States
such case made and provided, and against the peace and dignity
the United States.

82 *Seventh Count.*

Sec. 3, Title 1, Act of June 15, 1917, as amended by Act of May 16, 1918 (Espionage).

And the Grand Jurors aforesaid, upon their oaths aforesaid,
further present and find that the said E
gene V. Debs, hereinafter designated t
defendant, late of the Division and D
trict aforesaid, heretofore, towit, on
about the 16th day of June, 1918, at t
City of Canton, County of Stark, in t
State of Ohio, in the Division and Distr
aforesaid, and within the jurisdiction of this court; the United Sta
of America being then and there at war with the Imperial Germ
Government pursuant to a joint resolution of the Congress of t
United States, theretofore adopted, and which resolution was
proved by the President of the United States on the 6th day of Ap
A. D. 1917, did then and there unlawfully, wilfully and felonio
utter and publish certain language intended to incite, provoke a
encourage resistance to the United States, and to promote the ca
of its enemy, towit, The Imperial German Government, that is
say, he, the said defendant did then and there wilfully, unlawfu
and feloniously utter and publish certain language with the int
and purpose aforesaid, in a public speech and address, at the ti
and place aforesaid, to a certain assembly of people, among wh
were Clyde R. Miller and Dennis R. Smith, both being then
there citizens of the United States of America, and both being t
and there, persons between the ages of twenty-one and thirty, b
inclusive, part of whom were then and there citizens of the Un
States, then and there between the ages of twenty-one and thi
both inclusive, whose names are to the Grand Jurors unknown,

if known, are too numerous to mention herein, and for that reason are omitted, which said certain language so uttered and published as aforesaid, at the time and place aforesaid, and in the manner and under the circumstances aforesaid, in the words and substance, is as follows:

83 "Comrades, Friends and Fellow-Workers:—

"For this very cordial greeting, this very hearty reception, I thank you all with the fullest appreciation of your interest in your devotion to the cause for which I am to speak to you this afternoon. To speak for labor, to plead the cause of the men and women and children who toil, to serve the working class, has always been to me a high privilege, a duty of love.

"I have just returned from a visit from yonder (pointing to workhouse) where three of our most loyal comrades are paying the penalty for their devotion to the cause of the working class. They have come to realize, as many of us have, that it is extremely dangerous to exercise the constitutional right of free speech in a country fighting to make democracy safe for the world. I realize in speaking to you this afternoon that there are certain limitations placed upon the right of free speech. I must be extremely careful, prudent, as to what I say, and even more careful and prudent as to how I say it. I may not be able to say all I think, but I am not going to say anything that I do not think. And I would rather a thousand times be a free soul in jail than a sycophant or coward on the streets. They may put those boys in jail and some of the rest of us in jail, but they cannot put the Socialist movement in jail. Those prison bars separate their bodies from ours, but their souls are here this afternoon. They are simply paying the penalty that all men have paid in all of the ages of history for standing erect and seeking to pave the way for better conditions for mankind.

"If it had not been for the men and women who, in the past, have had the moral courage to go to jail, we would still be in the jungles.

"This assembly is exceedingly good to look upon. I wish it were possible to give you what you are giving me this afternoon. What I say here amounts to but little. What I see here is exceedingly important. You workers here in Ohio, enlisted in the greatest cause ever organized in the interests of your class, are making history today in the face of threatening trouble of all kinds, history that is going to be read with profound interest by the coming generation. There is but one thing that you have to be concerned about, and that is that you keep four-square with the principles of the international Socialistic movement. It is only when you begin to compromise that trouble begins. So far as I am concerned, it does not matter what others may say or think or do, as long as I am sure that I am right with myself and the cause.

"There are so many who seek refuge in the popular side of a great question. I am not of that number. As a Socialist I have long since learned how to stand alone.

"For the last month I have been traveling over the Hoo-ier
and let me say that in all my connections with the Socialist
ment, I have never seen such enthusiasm, such unity of mover
such a promising outlook as there is today. Notwithstanding
statement published by the capitalist press that our leaders ha
serted, I wish to say for myself I never had very much fait
leaders anyway. I am willing to be charged with almost anyt
rather than be charged with being a leader. I am suspiciou
leaders, especially all the intellectual file. Give me the rank an
every day in the week. Go to the City of Washington and co
the files there and you will find that the corporation lawyers,
bers of congress and misrepresentatives of the masses—all of
claim that they have risen from the ranks. I am so glad th
cannot make that claim for myself. When I rise, it wi
84 with the ranks and not from the ranks.

"When I came away from Indiana, the comrades
'When you cross the line, tell those comrades that we are on
and doing duty and are going to make a record this fall that
be heard around the world.'

"The Socialists of Ohio are very much alive this year. The
has been 'killed' this year, which accounts for its extraordinary
ity. This naturally helps a party. The oftener it is killed, the
energetic and more powerful they become. We have been rea
capitalist newspapers lately, and what a capacity they have for l
They know all about the Socialist party except what is true.
the other day, they took an article that I had written and mo
you have read, and made it appear that I had undergone a ma
ous transformation. I had suddenly come to my senses, had c
to be a wicked Socialist and had become a respectable Socialis
patriotic Socialist—as if I had ever been anything else. What
the purpose of this deliberate misrepresentation? It is so sel
dent that it was against itself. It was to sow dissatisfaction a
our ranks, so that we would pit ourselves against each other t
mutual undoing. But Socialists were not born yesterday.
know how to read capitalists' newspapers, and to believe exactl
opposite of what they read.

"Why should a Socialist be discouraged on the eve of the gr
triumph of all the history of the Socialist movement? It is true
these are anxious, trying days for us all, testing those who ar
holding the banner of the working class in the greatest struggl
world has ever known against the exploiters of the world; a tim
which the weak, the cowardly, will falter and fail and desert.
lack the fibre to endure the revolutionary test. They fall
They disappear as if they had never been.

"On the other hand, they who are animated with the uncon
able spirit of the Social revolution, they who have the moral co
to stand erect, to assert their convictions, to stand by them, to
jail or to hell for them—they are writing their names in this cr
hour, they are writing their names in fadeless letters in the hi
of mankind. Those boys over yonder, those comrades of ours—

how I love them—aye, they are our younger brothers, their names are seared in our souls.

"I am proud of them. They are there for us and we are here for them. Their lips, though temporarily mute, are more eloquent than ever before, and their voices, though silent, are heard around the world.

"Are we opposed to Prussian militarism? Why, we have been fighting it since the day the Socialist movement was born and we are going to continue to fight it today and until it is wiped from the face of the earth. Between us there is no truce, no compromise, but before I proceed along this line, let me recall a little history in which we are all interested.

"In 1869, that grand old warrior of the Socialist revolution, the elder Liebknecht, was arrested and sent to prison for three months because of his war as a Socialist on the Kaiser and the Junkers that ruled Germany. In the meantime, the Franco-Prussian war broke out. Liebknecht and Badel were the Socialist members of the Reichstag. They were the only two to protest against the taking of Alsace-Lorraine from France and giving it to Germany. They were taken from the Reichstag and sent to prison for two years. For four years previous to this, they had been fighting the Kaiser and the Junkers of Germany. They have fought them from that day to this. Thousands of them have languished in the prisons for war on the ruling classes of that country.

"Let us come down the line. At the close of Roosevelt's second term as President, he went over to Africa to make war on some of his ancestors. You remember at the close of his expedition, he visited all of the capitals of Europe and he was wined, dined, dignified and glorified by the Kaiser, kings and czars of the old world. He visited Potsdam while the Kaiser was there and, according to the account published in the American newspapers, he and the Kaiser were soon on the most intimate terms. They were hilariously intimate with each other. They slapped each other on the back. After Roosevelt had effused over the German troops, he remarked to the Kaiser, 'If I had that kind of an army, I would conquer the world.' He knew the Kaiser as well as he knows him now and yet he permitted himself to be entertained by the Beast of Berlin. He was cheek by jowl with the Beast of Berlin. And while he was being entertained by the Beast of Berlin, that same Kaiser was putting Socialist leaders in jail for fighting Kaiserism. Roosevelt was a guest of honor of the Kaiser while the Socialists were in the jail for fighting the Kaiser. Who was fighting against the Kaiser? Roosevelt? No. It was the Socialists.

"When the newspapers reported that Kaiser Wilhelm and Ex-President Theodore Roosevelt recognized each other at sight, at the first touch, they made admission that they are fatal to the champions of democracy. They admitted that their ideas and ideals were about the same. While Theodore Roosevelt, who is now the great champion of democracy, the arch foe of autocracy, what business had he as the guest of honor of the Kaiser and was it not pretty strong proof that he was a Kaiser at heart? After being the guest of the Kaiser,

he wants us to send 10,000,000 men to murder the Kaiser, to
his former friend and pal. And yet he is the patriot and we
traitors. I challenge you to find any Socialist who was ever th
of the Kaiser, except as one of his prison wards.

"In 1902, Prince Henry paid a visit to this country. Do
member him? I do. Exceedingly well. Prince Henry
brother of King Wilhelm. He is an autocrat; an aristocrat; a
of Junkers. He came over in 1902 as the representative of
Wilhelm. He was received by Congress, by several State legis
among others the State legislature of Massachusetts, then in
He was invited there by the members of the legislature. An
Prince Henry came there, there was one member who kept
respect, put on his hat, and as Prince Henry walked in, he
out, and that man was James F. Carey, and all the rest of th
sentatives joined in doing honor in the most servile spirit to th
representative of autocracy, and Carey was the only one who
meeting.

"You will remember history along the same line. I hav
tinct recollection. It occurred just 15 years ago. When
Henry came here, all of our plutocracy, living along Fifth
threw their palace doors wide open and received him with ope
They got down on their stomachs and vied with each other
the boots of Prince Henry, the representative of the Beast of

"Do not imagine for one moment that all the plutocra
Junkers are all in Germany; we have them here in our own c
and these want to keep our eyes focused upon the Junkers
many so we won't see those within our own border. I h
earthly use for the Junkers of Germany and not one partic
use for the Junkers in the United States.

86 "They tell us that we live in a great republic.
stitutions are democratic. We are a free people. Thi
much, even as a joke. It is not a subject for levity; it is an
ingly serious matter.

"To whom do the Wall Street Junkers in our country, t
do they marry their daughters? After they have wrung th
dreds of millions from your sweat and from your life blood i
of war as well as peace, they invest these millions in the
broken-down aristocrats, and to buy counts of no-account. A
satisfied to wed their daughters to honest workmen? To rea
crats? They scour the markets of Europe for those who ha
and nothing else, and they swap their titles for money. A
swap their matrimony for more money, while the plutocrats
country scan the country with their magnifying glasses for e
of disloyalty. Patriotism is the last refuge of scoundrels.
been the tyrant who wrapped himself in a cloak of religion
otism, or both. They would have you believe that the Socialis
consists in the main of disloyalists and traitors. It is true, i
tain sense. We are disloyalists and traitors to the real tra
this nation. And the gang on the Pacific coast are trying
Tom Mooney in spite of the protests of the civilized world.

"I know Tom Mooney. He is an absolutely honest, innoce
He had no more to do with the crime with which he was

than I have and if he ought to go to the gallows, so ought I. What is he guilty of? I will tell you. For years he has been fighting the battles of the working class out on the Pacific coast. He continued loyally in the service of the working class. They said, 'He cannot be bought; he refuses to be bribed. Therefore, he must be murdered.'

"Let us review another bit of history. Do you remember when Francis J. Heney was shot down in the court-rooms of San Francisco? A committee of high-binders, composed largely of members of the Chamber of Commerce, absolutely controlled the courts of San Francisco. They did not hesitate to commit murder to further their murderous regime. Tom Mooney was the only representative of the working class that they could not control. They owned the railways; they controlled the industries; they were the rulers and from them there was no appeal. And they were as infamous as any rulers that ruled in Germany or any other country. At last a grand jury was found that would indict them, and Francis J. Heney, who had been selected by the National Administration to assist in the prosecution, this same gang controlled by the Chamber of Commerce, this gang hired a murderer to shoot Francis J. Heney down in the court-room and he did. Francis J. Heney happened to live, but that was no fault of theirs. The same gang are also for the execution of Tom Mooney. Every solitary one of them claims to be an arch-patriot. Everyone of them claims he is trying to make democracy safe in this world. What humbug! What rot! What false pretence! The patriots are the men who have the courage to stand face to face and fight them, and they call them disloyalists and traitors, and if this be true, I want to take my place side by side with the traitors in this country.

"Why, the other day they sent a woman to Wichita penitentiary for ten years. Just think of sentencing a woman to the penitentiary for talking. The United States under the rule of the plutocrats is the only country which would send a woman to the penitentiary for ten years for exercising the right to free speech. If this be treason, let them make the most of it. Let me review another bit of history. I have known this woman for ten years. Personally I know her as if she were my own younger sister. She is a woman of absolute integrity. She is a woman of courage. She is a woman of unimpeachable loyalty to the Socialist movement. She went out
87 into Dakota and made her speech, followed by plain-clothes men in the service of the government, intent upon encompassing her arrest, prosecution and conviction. She made a certain speech and that speech was deliberately misrepresented for the purpose of securing her conviction. The only testimony was that of a hired witness. And thirty farmers who went to Bismarck to testify in her favor, the judge refused to allow to testify. This would seem incredible to me if I had not some experience of my own with a Federal court. Who appoints the Federal courts? The people? Every solitary one of them holds his position through influence and power of corporation capital. And when they go to the bench, they go there not to serve the people, but to serve the interests who sent

them. The other day, by a vote of five to four, they de
Child Labor Law unconstitutional; a law secured after tw
of education and agitation by all kinds of people, and yet
jority of one, the Supreme Court, a body of corporation law
just one solitary exception, wiped it from the Statute bool
we may still continue to grind the blood of little children
for the Junkers of Wall Street, and this in a country th
fighting to make democracy safe for the world. These ar
atable truths to them. And they do not want you to hear
that is why they brand us as traitors and disloyalists. I
not traitors to the people, we would be eminently respectab
and ride in limousines. It is precisely because we are
the traitors that we are not disloyal to the people of this c

"You have heard of Scott Nearing. He is the greatest
the United States. He was in the University of Pennsylv
the Board of Trustees, composed of great capitalists, foun
teaching true economics to the students of that universi
same forces said of a Judean carpenter nineteen centuries a
said of Jesus Christ, who was a workman and teacher,
'He is preaching a false religion,' and his lineal descend
'He is preaching false economics.' 'We cannot crucify him
starve him to death. We will make it impossible for hin
job. He is a dangerous man. He is teaching the truth.'
is always unpalatable to these plutocrats, who make their
the sweat of the working class.

"They are afraid that we might contaminate you. You
wards. They are their own guardians. They must see
vicious doctrines do not reach your ears. What a mistake th
We ought to pass a resolution of thanks and send it to them
are the people who want to seize our paper. And woe to
who reads Socialist literature. He is a goner. I have kn
thousand experiments but I have never known of a single ex
to escape it. Let me tell you about John Werk, of Milwaul
capitalists of Milwaukee said to John, 'We have got to find
Socialism. John, you are a bright, young lawyer; we wa
find out all about Socialist literature.' After reading the
volume, John was a full-fledged Socialist and has been fig
us ever since.

"How short-sighted the ruling class is. The exploiter c
beyond the end of his nose. He has just cunning enough
what graft is and where it is but he has no vision. You k
is a great throbbing world that spreads out in all direction
at Rockefeller. Every move he makes hastens the comi
doom. Every time the capitalist class tries to hinder the
Socialism they hurt themselves. Every time they strangle a
newspaper they add a thousand voices to those which are a
cialism. The Socialist has a great idea. An expanding pl

It is spreading over the face of the earth. It is
88 resist it as it is to resist the rising sunrise. Can yo

If you cannot you are lacking in vision, in under
What a privilege it is to serve it. I have regretted a thous

I can do so little for the movement that has done so much for me The little that I am, the little that I am hoping to be, is due wholl to the Socialist movement. It gave me my ideas and my ideals, an I would not exchange one of them for all the Rockefeller blood stained dollars. It taught me how to serve; a lesson to me of price less value. It taught the ecstasy of the hand-clasp of the comrade It made it possible for me to get in touch with you, to multiply my self over and over again; to open the avenue to spread out the glori ous vistas; to know that I am kin with all that throbs, that become class conscious. Every man who toils, everyone of them, is m comrade. To serve them is the highest duty of my life. And i their service I can feel myself expanding. I rise to the stature of man. Yes, my heart is attuned to yours. All of our hearts ar melted into one great heart which throbs to the response of th people.

"Here I hear your heart beats responsive to the Bolsheviki o Russia. (Applause.) Yes, those heroic men and women, thos unconquerable comrades, who have by their sacrifice added fresh lustre to the international movement. Those Russian comrades wh have made greater sacrifices, who have suffered more, who have shed more heroic blood than any like number of men and women any where else on earth. They have led the first real convention of any democracy that ever drew breath. The first act of that memorabl revolution was to proclaim a state of peace with an appeal not to th kings, not to the rulers, but an appeal to the people of all nations They are the very breath of democracy: the quintessence of free dom. They made their appeal to the people of all nations, the Allie as well as the Central Powers, to send representatives to lay down terms of a peace that should be lasting. Here was a fine opportunity to strike a blow to make democracy safe to the world. Was ther any response to that noble appeal? And here let me say that appea will be written in letters of gold in the history of the world. Whil it has been charged that the leader made a traitorous peace with Germany, let us consider this proposition briefly. At the time o the revolution, Russia had lost 4,000,000 of her soldiers. She wa absolutely bankrupt. Her soldiers were without arms. This wa what was bequeathed to the revolution by the Czar. For this condi tion, Leon Trotski was not responsible nor was the Bolshevik move ment, but the czar was.

"When Leon Trotski came into power, he found the secret treatie made between the French government and the British governmen and the Italian government which was to divide the territory of th Central Powers if the Allies were victorious, and these secret treatie have not been repudiated up to this time. Very little has been sai about them in the American newspapers. This shows that the pur pose of the Allies is exactly the purpose of the Central Powers.

"Wars have been waged for conquests, for plunder, and since th feudal ages along the Rhine, the feudal lords made war upon eac other. They wanted to enlarge their domains, to increase thei power and their wealth and so they declared war upon each othe But they did not go to war any more than the Wall Street Junker

go to war. Their predecessors declared the wars, but their miserable serfs fought the wars. The serfs believed that it was their patriotic duty to fall upon one another, to wage war upon one another. And that is war in a nutshell. The master class has always brought a war and the subject class has fought the battle. The master class has had all to gain and nothing to lose, and the subject class
89 has all to lose and nothing to gain. They have always taught you that it is your patriotic duty to go to war and slaughter yourselves at their command. You have never had a voice in the war. The working class who make the sacrifices, who shed the blood, have never yet had a voice in declaring war. The ruling class has always made the war and made the peace.

"Yours not to question why,
Yours but to do and die.

"Another bit of history I want to review is that of Rose Pastor Stokes, another inspiring comrade. She had her millions of dollars. Her devotion to the cause is without all consideration of a financial or economic view. She went out to render service to the cause and they sent her to the penitentiary for ten years. What has she said? Nothing more than I have said here this afternoon. I want to say that if Rose Pastor Stokes is guilty, so am I. If she should be sent to the penitentiary for ten years, so ought I. What did she say? She said that a government could not serve both the profiteers and the employees of the profiteers. Roosevelt has said a thousand times more in his paper, the Kansas City Star. He would do everything possible to discredit Wilson's administration in order to give his party credit. The Republican and Democratic parties are all patriots this fall and they are going to combine to prevent the election of any disloyal Socialists. Do you know of any difference between them? One is in, the other is out. That is all the difference.

"Rose Pastor Stokes never said a word she did not have a right to utter, but her message opened the eyes of the people. That must be suppressed. That voice must be silenced. Her trial in a capitalist court was very farci-al. What chance had she in a corporation court with a put-up jury and a corporation tool on the bench?

"If the war was over tomorrow, all the prison doors would open. They were just to silence these voices during the war, and the cases will be pending in court for months, perhaps years. The truth will make the people free and the truth must not be permitted to reach the people. The truth has always been dangerous to the rule of the rogue, to the exploiters. And every time they make an attempt (to attack Socialism) they have ten thousand voices proclaiming that Socialism must live.

(Gets a glass of water from one on the platform.)

"Thank you, comrade. How good the touch of the hand of a comrade is and a sip of water furnished by a comrade! And how good it is to look into your faces this afternoon! You are really good looking to me this afternoon, I assure you. Your tribe has increased wonderfully since I came here. You used to be so few and so far between. When you struck a place the first thing to do was

to try to find a Socialist. If he happened to be the only one in town, he now holds a place of honor in the hearts of all now living. Now you can't throw a stone in the dark without hitting a Socialist.

"I went to Warren some years ago. It happened the year President McKinley was assassinated. In common with all others, I deplored that tragic event. There is not a Socialist who would have been guilty of that crime. We do not attack individuals. We have no fight with individuals. We are capable of pitying those who hate us. We do not hate them. We know better. We would hand them a cup of water if they needed it. There is not any room in our hearts for hate, except for a system, a system in which it is impossible for one man to achieve a tremendous fortune while millions and millions struggle for the bare necessities of life. When McKinley was assassinated the ministers met at Portsmouth and passed a resolution that Debs was responsible for the death of McKinley. So all those ministers met and said I was not permitted to come into the city. I went there soon after, however.

"At Warren I was prepared to speak at the hall. I arrived in the evening and was no more than registered when I was ordered to leave the town, as I was not to be permitted to speak there. I sent word to the mayor that I would speak at Warren or I would leave Warren in a box. I went to the hall and the G. A. R. had a special meeting. In the full uniform they sat in the front seats. I went to the hall and made my speech. I told them who was responsible for the assassination. As long as there is misery, caused by robbery at the bottom, there will be assassination at the top. Well, I made the speech that night. I was back there the other day and the whole population of Warren was there to meet me.

"They who have had the courage to take their places at the front, they who have been true enough to speak the truth that is in them, who have espoused the cause of the suffering, struggling poor, who have upheld the cause of righteousness—they have made the history. They have paved the way to civilization. There are so many who remain on the popular side. They lack the fibre that endures. They are to be pitied and not treated with contempt. Those who have lived and endured that we should live on the earth today, had their bones broken on the wheel and were burned at the stake. We are under obligation to them because of what they suffered for us, and the only way we can cancel that obligation is by doing and seeking today for the interest of everyone who needs us.

"Every Socialist on the face of the earth is animated by the same principles. Everywhere they have the same noble idea, everywhere they are calling one another 'comrade', the noblest word that springs from the heart and soul of unity. The word 'comrade' is getting us into closer touch all along the battle line. They are waging the war on the working class against the ruling class of the world. They conquer difficulties; they grow stronger through them all.

"The heart of the international Socialist never beats a retreat. They are pressing forward here, there, everywhere, in all the zones that girdle this globe. These workers, these class-conscious workers,

these children of honest toil are wiping out the boundary lines everywhere. They are proclaiming the glad tidings of the coming emancipation. Everywhere they are having their hearts attuned to the sacred cause; everywhere they are moving toward democracy, moving toward the sunrise, their faces aglow with the light of coming day. These are the men who must guide us in the greatest crisis the world has ever known. They are making history. They are bound upon the emancipating of the human race.

"They have been sufficient to themselves, pressing forward toward the heights. Do you wish to hasten the coming day? Join the Socialist party. Do not wait for the morrow. Come now. Enroll your name. Take your place where you belong. You cannot do your duty by proxy. You have got to do it yourself. You will have no occasion to blush. You will know what it is to be a man or a woman. You will lose nothing. You will gain everything. You are very apt to find something. You need to know that you are fit for something better than slavery and cannon fodder. You need to know that you are not created to work and to produce and to impoverish yourself. You need to know that you have a soul to develop. You need to know that it is for you to know something about literature and about science and about art. You need to get in touch with your comrades. You need to become conscious of your own interests. You need to know that as long as you are unorganized industrially and content you will remain exactly where you are. You will be exploited. You will have to beg for a job and you will get just enough to keep you in working order. And you will be looked down upon in contempt. If you would be respected you will have to begin by respecting yourself. I would not want to be in the predicament that poor fellow was in who heard a Socialist speech the other day and thought he ought to be a Socialist. The argument was invincible.

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"'Well, all he said was true.'

"But he finally concluded he might lose his job.

"'I guess I can't afford to take the chance.'

"That night he slept alone. He was in trouble with his conscience. Such men always are. A Socialist always goes to bed with his self-respect and he can look the whole face in the world (the crowd laughs at the unconscious inversion of words) without a tremor.

"This poor fellow had a terrible dream and bounded from his bed and said: 'My God, there is nobody in this room!' And he was absolutely right. No wonder he was terror-stricken. How would you like to sleep in a room with nobody in it?

"There is a great deal of hope for our comrades, Wagenknecht, Ruthenberg and Baker. Anybody can be nobody, but it takes a man to be somebody. Turn your back upon that corrupt Republican party and that still more corrupt Democratic party, the gold-dust twins of the ruling class. Get into a minority party that fights for a cause. Make that change. It will be the most important change you ever made in your life. You will thank me for having made the suggestion. It was a day of days for me. I passed from darkness to light.

"Great, seething, throbbing Russia was transferred from a land of seething darkness to a land of living light. There is something splendid in the prompting of the heart to be true to yourself.

"You are in the crucible today, Mr. Socialist. You are going to be tried, to what extent, no one knows. If you are of weak fibre, that weakness will be found out. We will have to bid good-bye to you. You are not of the stuff of which revolutionists are made. The intellectuals, a good many of them, are all gone. That is no loss to ourselves and no gain to others. In discussing intellectuals, let us answer this question: They have been with us for a long while. What will become of the rank and file as soon as the shepherds cease to guide us? 'You are my sheep.' In other words, you are my mutton. They are ruled through the intellectuals in the capitalist parties. If you are in the Republican or Democratic party, you will not be called upon to think. They ride in the carriages; you tramp in the mud. The capitalist system affects to have great regard for intellect. We used to tell the capitalists sometime ago, 'The working class will rule'. We used to say, 'The people ought to own the railroads'. We advocated that twenty years ago. You have got to have brains to operate railroads—and the other day McAdoo fired all the brains. Have you noticed any change since the brains have gone? The railroads are now operated by hand.

"This determines how invaluable is the quality of capitalist brains. They have always given themselves credit for having superior brains. They have had all the brains and all the wealth. As to brain capacity, they are the most woeful people on the face of the earth. But they know how to gouge. And they do it legally, for the reason that the class which can rob on a large scale has the power to control courts.

"Among other things they tell you to cultivate war gardens. Government reports now show that 52% of the arable, tillable soil is held out of use by the profiteers. They do not allow others to cultivate it. They keep it idle, to enrich themselves. Thus, it
92 makes their land valuable. It is not the fault of the people; it is the fault of the landlords. And while we are upon the subject, think about the landlord. The landlord is the great patriot. He is fighting to make the world safe for democracy. He it is who profits at the expense of the people under the pretense of being a great patriot. It is he whom you need to wipe from power. It is he who diminishes your health and your liberty far more than the Prussian junker on the other side of the ocean. According to their own figures, they will tell you that we will have to export more wheat for the soldiers on the other side.

"They tell you there is a coal famine. The State of Indiana, where I live, is underlaid with coal. The coal is under our feet. All that we can possibly use. The miners are ready to enter the mines. Here is the machinery ready to increase the output to any desired capacity. Aye, only three weeks ago, the officers of the United Mine Workers issued a bulletin to the Labor Department of the United States that the 600,000 coal miners of the United States at this time when they tell us of a coal famine, are not permitted to work more

than one-half time. I have seen the miners idle. In the mea
time there is a scarcity of coal. They tell you to buy your coal n
and they charge you three prices for it. Now, we have private ow
ership of the coal mines, and you ought to have if you vote for t
Democratic or Republican ticket. The profiteers want a scarcity
coal. They make money out of a scarcity of coal. The operat
say there are no cars and the railroads say there is no coal. A
between them they defraud the people. Here is the difficulty. He
are the cars. The Socialist says, 'Take possession of the mines.
the miners at work. Give the miner all he produces.' The min
works three hundred feet in the earth. The owner of the mine liv
in New York or Vienna or Paris. He does not have to do a bit
work. He owns the tools, the machinery and the *nuber*. And th
is what you do every time you vote the Democratic or Republic
ticket. Let the miner mine the coal and then he gets the full val
of his toil. He can then provide himself and his wife and his ch
dren with a good home (and plenty to eat). So they continue
charge three prices for coal. If that is the thing you want, you w
get it to your heart's content.

"A change is needed, a change of system from despotism to d
mocracy, a change from slavery to freedom; a change from bru
hood to brotherhood. To accomplish this you have got to organiz
and to organize not along the zig-zag lines laid down by Sam Gom
pers who, through all of his career, has been on the side of the ca
italist class. You never hear the capitalist papers speak of hi
except in praise. Gompers was always conservative, * * * h
solving the labor situation by the aid of Elihu Root and Andy Ca
negie with whom he drank wine and smoked scab cigars.

"Few men have the courage to say a decent word in favor of th
I. W. W. I have. (Here several in the crowd yelled, 'So have I.

"I have a great respect for the I. W. W. There has been
pamphlet issued called, 'The Truth about the I. W. W.' After lon
investigation by five men who are not Socialists: John Graha
Brooks, Harvard University, Mr. Bruers, government investigato
(other names not noted).

"These men investigated the I. W. W. They have examined i
doings, beginning at Bisbee, Arizona, where the officers deporte
five hundred. Just think of the state of mind for which the capitali
press is responsible.

"When Wall Street yells war, you may rest assured ever
93 pulpit in the land will yell war. The press and the pulp
have in every age and every nation been on the side of th
exploiting class and the ruling class. That's why the I. W. W.
infamous.

"The I. W. W. in its career has never committed as much violen
against the ruling class as the ruling class has committed again
the people. The trial at Chicago is now on and they have not prove
violence in a single solitary case. And yet, one hundred and twel
have been on trial for months and months without a shade of ev
dence. And this is all in its favor. And for this and many othe
reasons, the I. W. W. is fighting the fight of the bottom dog. F
the very reason that Gompers is glorified by Wall Street, Bill Hay

wood is despised by Wall Street. What you need is greater organization.

"In the shop is where the industrial union has its beginning. Organize. Define your capacity. Act together. And when you organize industrially you will soon learn that you can manage industry as well as operate industry. You will find that you do not have to take work from them; you give them work to do. You can dispense with them. You ought to own your own tools. Organize industrially. Make the organization complete. Unite in the Socialist party. Vote as you organize. Stand with your party. See that that party improves the working class, especially this year when the forces will clash as they have never clashed before. Take your place in the ranks. Help to inspire the weak and strengthen the faltering. Then, when we vote together we will develop the supreme power of the one class that can bring peace to the world. We will transfer the title deeds of the railroads, of the telegraphs, the mines and the mills. We will transfer them to the people. We will take possession in the name of the people. We will have industrial, social and political democracy. This change will be universal.

"And now for all of us to do our duty. The call is ringing in your ears. Do not worry over the charge of treason to your masters, but be concerned about the treason that involves yourself. This year we are going to sweep into power and in this nation and we are going to destroy capitalistic institutions and re-create them. * * * The world of capital is collapsing. We need industrial builders. We Socialists are the builders of the world that is to be. We are inviting you this afternoon. Join and it will help you.

"In due course of time we will proclaim the emancipation of the brotherhood of all mankind."

94 And the Grand Jurors further present and find that at the time and place aforesaid, and in the manner and under the circumstances aforesaid, when he, the said defendant, so uttered and published said certain language as set forth herein, he, the said defendant did so with the intent to incite, provoke and encourage resistance to the United States and to promote the cause of its enemy, towit, The Imperial German Government, as set forth herein in words and substance aforesaid; contrary to the form of the Statute of the United States in such case made and provided, and against the peace and dignity of the United States.

95 *Eighth Count.*

Sec. 3, Title 1, Act of June 15, 1917, as amended by Act of May 16, 1918 (Espionage).

And the Grand Jurors aforesaid, upon their oaths aforesaid, do further present and find that the said Eugene V. Debs, hereinafter designated the defendant, late of the Division and District aforesaid, heretofore, towit, on or about the 16th day of June, 1918, at the City of Canton, County of Stark, in the State of Ohio, in the Division and District aforesaid, and within the jurisdiction of this court; the United States of America being then and there at war with the Imperial German

Government pursuant to a joint resolution of the Congress
United States, theretofore adopted, and which resolution
proved by the President of the United States on the 6th day of
A. D. 1917, did then and there unlawfully, wilfully and felo
by certain utterances and language spoken, urge, incite and
cate the curtailment of production in the United States of
armament, ammunition, and munitions, necessary and esse
the prosecution of the war in which the United States is e
as aforesaid, with the intent on the part of the said defendan
by such curtailment, to cripple and to hinder the United St
the prosecution of the war aforesaid, that is to say, he, the s
fendant, did unlawfully, wilfully and feloniously by certain
ances and language spoken, urge, incite and advocate said af
curtailment of production in the United States of said arms,
ment, ammunition and munitions, necessary and essential
prosecution of the war in which the United States is enga
aforesaid, in a public speech and address, at the time and place
said, to a certain assembly of people, among whom were Cl
Miller, Dennis R. Smith, Virgil Steiner, A. P. Owen and
other persons, whose names are to the Grand Jurors unknow
if known, are too numerous to mention herein, and f
96 reason are omitted, with the intent on the part of t
defendant by such curtailment to hinder and cripp
United States in the prosecution of the war as aforesaid, whi
certain utterances and language spoken at the time and place
said, to the persons aforesaid, and in the manner and under t
cumstances aforesaid, with the intent aforesaid, was in word
substances as follows:

97 "Comrades, Friends and Fellow-Workers:—

"For this very cordial greeting, this very hearty rec
I thank you all with the fullest appreciation of your interest
your devotion to the cause of which I am to speak to you this
noon. To speak for labor, to plead the cause of the men and
and children who toil, to serve the working class, has always
me a high privilege, a duty of love.

"I have just returned from a visit from yonder (pointing to
house) where three of our most loyal comrades are paying th
alty for their devotion to the cause of the working class. The
come to realize, as many of us have, that it is extremely dan
to exercise the constitutional right of free speech in a country
ing to make democracy safe for the world. I realize in spe
to you this afternoon that there are certain limitations placed
the right of free speech. I must be extremely careful, prude
to what I say, and even more careful and prudent as to how I
I may not be able to say all I think, but I am not going to say
thing that I do not think. And I would rather a thousand ti
a free soul in jail than a sycophant or coward on the streets.
may put those boys in jail and some of the rest of us in jai
they cannot put the Socialist movement in jail. Those prison
separate their bodies from ours, but their souls are here this

noon. They are simply paying the penalty that all men have pai in all of the ages of history for standing erect and seeking to pav the way for better conditions for mankind.

"If it had not been for the men and women who, in the pas have had the moral courage to go to jail, we would still be in th jungles.

"This assembly is exceedingly good to look upon. I wish it wer possible to give you what you are giving me this afternoon. Wha I say here amounts to but little. What I see here is exceedingly im portant. You workers here in Ohio, enlisted in the greatest caus ever organized in the interests of your class, are making history toda in the face of threatening trouble of all kinds, history that is goin to be read with profound interest by the coming generation. Ther is but one thing that you have to be concerned about and that is tha you keep four-square with the principles of the international Socia istic movement. It is only when you begin to compromise tha trouble begins. So far as I am concerned, it does not matter wha others may say or think or do, as long as I am sure that I am righ with myself and the cause.

"There are so many who seek refuge in the popular side of a grea question. I am not of that number. As a Socialist I have long sinc learned how to stand alone.

"For the last month I have been traveling over the Hoosier stat and let me say that in all my connections with the Socialist move ment, I have never seen such enthusiasm, such unity of movement such a promising outlook as there is today. Notwithstanding th statement published by the capitalist press that our leaders had de serted, I wish to say for myself I never had very much faith in leaders anyway. I am willing to be charged with almost anythin rather than be charged with being a leader. I am suspicious o leaders, especially all the intellectual file. Give me the rank and fil every day in the week. Go to the City of Washington and consul the files there and you will find that the corporation lawyers, mem bers of congress and misrepresentatives of the masses—all of them claim that they have risen from the ranks. I am so glad that I cannot make that claim for myself. When I rise, it will be
98 with the ranks and not from the ranks.

"When I came away from Indiana, the comrades said, 'When you cross the line, tell those comrades that we are on duty and doing duty and are going to make a record this fall that will be heard around the world.'

"The Socialists of Ohio are very much alive this year. The party has been 'killed' this year, which accounts for its extraordinary activity. This naturally helps a party. The oftener it is killed, the more energetic and more powerful they become. We have been reading capitalist newspapers lately, and what a capacity they have for lying. They know all about the Socialist party except what is true. Only the other day, they took an article that I had written and most of you have read, and made it appear that I had undergone a marvelous transformation. I had suddenly come to my senses, had ceased to be a wicked Socialist and had become a respectable Socialist, a

patriotic Socialist—as if I had ever been anything else. Wh
the purpose of this deliberate misrepresentation? It is so
dent that it was against itself. It was to sow dissatisfaction
our ranks, so that we would pit ourselves against each other
mutual undoing. But Socialists were not born yesterday.
know how to read capitalists' newspapers, and to believe exac
opposite of what they read.

"Why should a Socialist be discouraged on the eve of the
triumph of all the history of the Socialist movement? It is tr
these are anxious, trying days for us all, testing those who
holding the banner of the working class in the greatest strug
world has ever known against the exploiters of the world; a
which the weak, the cowardly, will falter and fail and desert,
lack the fibre to endure the revolutionary test. They fal
They disappear as if they had never been.

"On the other hand, they who are animated with the unc
able spirit of the Social revolution, they who have the moral
to stand erect, to assert their convictions, to stand by them,
jail or to hell for them—they are writing their names in this
hour, they are writing their names in fadeless letters in the
of mankind. Those boys over yonder, those comrades of ou
how I love them—aye, they are our younger brothers, their
are seared in our souls.

"I am proud of them. They are there for us and we are
them. Their lips, though temporarily mute, are more eloque
ever before, and their voices, though silent, are heard arou
world.

"Are we opposed to Prussian militarism? Why, we ha
fighting it since the day the Socialist movement was born
are going to continue to fight it today and until it is wipe
the face of the earth. Between us there is no truce, no comp
but before I proceed along this line, let me recall a little his
which we are all interested.

"In 1869, that grand old warrior of the Socialist revoluti
elder Liebknecht, was arrested and sent to prison for three
because of his war as a Socialist on the Kaiser and the Junk
ruled Germany. In the meantime, the Franco-Prussian wa
out. Liebknecht and Badel were the Socialist members
Reichstag. They were the only two to protest against the ta
Alsace-Lorraine from France and giving it to Germany. Th
taken from the Reichstag and sent to prison for two years.
years previous to this, they had been fighting the Kaiser
Junkers of Germany. They have fought them fr
99 day to this. Thousands of them have languished
prisons for war on the ruling classes of that country

"Let us come down the line. At the close of Roosevelt's
term as President, he went over to Africa to make war on som
ancestors. You remember at the close of his expedition, he
all of the capitals of Europe and he was wined, dined, digni
glorified by the Kaiser, kings and czars of the old world. He
Potsdam while the Kaiser was there and, according to the

published in the American newspapers, he and the Kaiser were
on the most intimate terms. They were hilariously intimate
each other. They slapped each other on the back. After Roos
had effused over the German troops, he remarked to the Kaise
I had that kind of an army, I would conquer the world.' He
the Kaiser as well as he knows him now and yet he permitted
self to be entertained by the Beast of Berlin. He was cheek by
with the Beast of Berlin. And while he was being entertaine
the Beast of Berlin, that same Kaiser was putting Socialist le
in jail for fighting Kaiserism. Roosevelt was a guest of hon
the Kaiser while the Socialists were in the jail for fighting the K
Who was fighting against the Kaiser? Roosevelt? No. It wa
Socialists.

"When the newspapers reported that Kaiser Wilhelm and
President Theodore Roosevelt recognized each other at sight, a
first touch, they made admission that they are fatal to the champ
of democracy. They admitted that their ideas and ideals were a
the same. While Theodore Roosevelt, who is now the great c
pion of democracy, the arch foe of autocracy, what business ha
as the guest of honor of the Kaiser and was it not pretty strong
that he was a Kaiser at heart? After being the guest of the K
he wants us to send 10,000,000 men to murder the Kaiser, to mu
his former friend and pal. And yet he is the patriot and we ar
traitors. I challenge you to find any Socialist who was ever the
of the Kaiser, except as one of his prison wards.

"In 1902, Prince Henry paid a visit to this country. Do yo
member him? I do. Exceedingly well. Prince Henry is
brother of King Wilhelm. He is an autocrat; an aristocrat; a Ju
of Junkers. He came over in 1902 as the representative of K
Wilhelm. He was received by Congress, by several State legislat
among others the State legislature of Massachusetts, then in ses
He was invited there by the members of the legislature. And
Prince Henry came there, there was one member who kept his
respect, put on his hat, and as Prince Henry walked in, he wa
out, and that man was James F. Carey, and all the rest of the r
sentatives joined in doing honor in the most servile spirit to that
representative of autocracy, and Carey was the only one who left
meeting.

"You will remember history along the same line. I have a
tinct recollection. It occurred just 15 years ago. When Pr
Henry came here, all of our plutocracy, living along Fifth Ave
threw their palace doors wide open and received him with open a
They got down on their stomachs and vied with each other to
the boots of Prince Henry, the representative of the Beast of Be

"Do not imagine for one moment that all the plutocrats
Junkers are all in Germany; we have them here in our own cou
and these want to keep our eyes focused upon the Junkers in
many so we won't see those within our own border. I have
earthly use for the Junkers of Germany and not one particle
use for the Junkers in the United States.

"They tell us that we live in a great republic. Ou
stitutions are democratic. We are a free people. This i

much, even as a joke. It is not a subject for levity; it is
ingly serious matter.

"To whom do the Wall Street Junkers in our country
do they marry their daughters? After they have wrun
dreds of millions from your sweat and from your life bloo
of war as well as peace, they invest these millions in t
broken-down aristocrats, and to buy counts of no-account
satisfied to wed their daughters to honest workmen? To
crats? They scour the markets of Europe for those who
and nothing else, and they swap their titles for money.
swap their matrimony for more money, while the plutoc
country scan the country with their magnifying glasses f
of disloyalty. Patriotism is the last refuge of scoundre
been the tyrant who wrapped himself in a cloak of religi
otism, or both. They would have you believe that the So
consists in the main of disloyalists and traitors. It is tru
tain sense. We are disloyalists and traitors to the real
this nation. And the gang on the Pacific coast are tryi
Tom Mooney in spite of the protests of the civilized wor

"I know Tom Mooney. He is an absolutely honest, in
He had no more to do with the crime with which he w
than I have and if he ought to go to the gallows, so ough
is he guilty of? I will tell you. For years he has been
battles of the working class out on the Pacific coast. He
loyally in the service of the working class. They said,
be bought; he refuses to be bribed. Therefore, he mu
dered.'

"Let us review another bit of history. Do you reme
Francis J. Heney was shot down in the court-rooms of
cisco? A committee of high-binders, composed largely
of the Chamber of Commerce, absolutely controlled the c
Francisco. They did not hesitate to commit murder to f
murderous regime. Tom Mooney was the only represent
working class that they could not control. They owned th
the- controlled the industries; they were the rulers and
there was no appeal. And they were as infamous as any
ruled in Germany or any other country. At last a gran
found that would indict them, and Francis J. Heney, wh
selected by the National Administration to assist in the
this same gang controlled by the Chamber of Commerce
hired a murderer to shoot Francis J. Heney down in the
and he did. Francis J. Heney happened to live, but t
fault of theirs. The same gang are also for the executi
Mooney. Every solitary one of them claims to be an
Everyone of them claims he is trying to make democracy
world. What humbug! What rot! What false pret
patriots are the men who have the courage to stand face
fight them, and they call them disloyalists and traitors.
be true, I want to take my place side by side with the tra
country.

"Why, the other day they sent a woman to Wichita
for ten years. Just think of sentencing a woman to the
for talking. The United States under the rule of the
the only country which would send a woman to the pen
ten years for exercising the right to free speech. If thi
let them make the most of it. Let me review another b
I have known this woman for ten years. Personally I
if she were my own younger sister. She is a woman
integrity. She is a woman of courage. She is a wom
peachable loyalty to the Socialist movement. S
101 into Dakota and made her speech, followed by
men in the service of the government, intent
passing her arrest, prosecuted and convicted. She ma
speech and that speech was deliberately misrepresented
pose of securing her conviction. The only testimony w
hired witness. And thirty farmers who went to Bismar
in her favor, the judge refused to allow to testify. This
incredible to me if I had not some experience of my
Federal court. Who appoints the Federal courts?
Every solitary one of them holds his position through i
power of corporation capital. And when they go to the
go there not to serve the people, but to serve the intere
them. The other day, by a vote of five to four, they
Child Labor Law unconstitutional; a law secured after t
of education and agitation by all kinds of people, and
jority of one, the Supreme Court, a body of corporation l
just one solitary exception, wiped it from the Statute be
we may still continue to grind the blood of little childre
from the Junkers of Wall Street, and this in a country
fighting to make democracy safe for the world. These
atable truths to them. And they do not want you to he
that is why they brand us as traitors and disloyalists.
not traitors to the people, we would be eminently respect
and ride in limousines. It is precisely because we are
the traitors that we are not disloyal to the people of this

"You have heard of Scott Nearing. He is the greates
the United States. He was in the University of Pennsy
the Board of Trustees, composed of great capitalists, fo
teaching true economics to the students of that univer
same forces said of a Judean carpenter nineteen centuries
said of Jesus Christ, who was a workman and teacher
'He is preaching a false religion,' and his lineal desce
'He is preaching false economics.' 'We cannot crucify hi
starve him to death. We will make it impossible for h
job. He is a dangerous man. He is teaching the truth,'
is always unpalatable to these plutocrats, who make the
the sweat of the working class.

"They are afraid that we might contaminate you. Y
wards. They are their own guardians. They must see
cious doctrines do not reach your ears. What a mistake
We ought to pass a resolution of thanks and send it to th

are the people who want to seize our paper. And woe to the man who reads Socialist literature. He is a goner. I have known of a thousand experiments but I have never known of a single experiment to escape it. Let me tell you about John Werk, of Milwaukee. The capitalists of Milwaukee said to John, 'We have got to find out about Socialism. John, you are a bright, young lawyer; we want you to find out all about Socialist literature.' After reading the Socialist volume, John was a full-fledged Socialist and has been fighting for us ever since.

"How short-sighted the ruling class is. The exploiter cannot see beyond the end of his nose. He has just cunning enough to know what graft is and where it is but he has no vision. You know this is a great throbbing world that spreads out in all directions. Look at Rockefeller. Every move he makes hastens the coming of his doom. Every time the capitalist class tries to hinder the cause of Socialism they hurt themselves. Every time they strangle a Socialist newspaper they add a thousand voices to those which are aiding Socialism. The Socialist has *has* a great idea. An expanding philosophy. It is spreading over the face of the earth. It is useless
102 to resist it as it is to resist the rising sunrise. Can you see it? If you cannot you are lacking in vision, in understanding. What a privilege it is to serve it. I have regretted a thousand times I can do so little for the movement that has done so much for me. The little that I am, the little that I am hoping to be, is due wholly to the Socialist movement. It gave me my ideas and my ideals, and I would not exchange one of them for all the Rockefeller blood-stained dollars. It taught me how to serve; a lesson to me of priceless value. It taught the ecstasy of the hand-clasp of the comrade. It made it possible for me to get in touch with you, to multiply myself over and over again; to open the avenue to spread out the glorious vistas; to know that I am kin with all that throbs, that becomes class conscious. Every man who toils, everyone of them, is my comrade. To serve them is the highest duty of my life. And in their service I can feel myself expanding. I rise to the stature of a man. Yes, my heart is attuned to yours. All of our hearts are melted into one great heart which throbs to the response of the people.

"Here I hear your heart beats responsive to the Bolsheviki of Russia. (Applause.) Yes, those heroic men and women, those unconquerable comrades, who have by their sacrifice added fresh lustre to the international movement. Those Russian comrades who have made greater sacrifices, who have suffered more, who have shed more heroic blood than any like number of men and women anywhere else on earth. They have led the first real convention of any democracy that ever drew breath. The first act of that memorable revolution was to proclaim a state of peace with an appeal not to the kings, not to the rulers, but an appeal to the people of all nations. They are the very breath of democracy; the quintessence of freedom. They made their appeal to the people of all nations, the Allies as well as the Central Powers, to send representatives to lay down terms of a peace that should be lasting. Here was a fine opportunity

to strike a blow to make democracy safe to the world. Was there any response to that noble appeal? And here let me say that appeal will be written in letters of gold in the history of the world. While it has been charged that the leader made a traitorous peace with Germany, let us consider this proposition briefly. At the time of the revolution, Russia had lost 4,000,000 of her soldiers. She was absolutely bankrupt. Her soldiers were without arms. This was what was bequeathed to the revolution by the Czar. For this condition, Leon Trotski was not responsible nor was the Bolshevik movement, but the czar was.

"When Leon Trotski came into power, he found the secret treaties made between the French government and the British government and the Italian government which was to divide the territory of the Central Powers if the Allies were victorious, and these secret treaties have not been repudiated up to this time. Very little has been said about them in the American newspapers. This shows that the purpose of the Allies is exactly the purpose of the Central Powers.

"Wars have been waged for conquests, for plunder, and since the feudal ages along the Rhine, the feudal lords made war upon each other. They wanted to enlarge their domains, to increase their power and their wealth and so they declared war upon each other. But they did not go to war any more than the Wall Street Junkers go to war. Their predecessors declared the wars, but their miserable serfs fought the wars. The serfs believed that it was their patriotic duty to fall upon one another, to wage war upon one another. And that is war in a nutshell. The master class has always brought a war and the subject class has fought the battle. The master class has had all to gain and nothing to lose, and the subject class
103 has had all to lose and nothing to gain. They have always taught you that it is your patriotic duty to go to war and slaughter yourselves at their command. You have never had a voice in the war. The working class, who make the sacrifices, who shed the blood, have never yet had a voice in declaring war. The ruling class has always made the war and made the peace.

"Yours not to question why,
Yours but to do and die.

"Another bit of history I want to review is that of Rose Pastor Stokes, another inspiring comrade. She had her millions of dollars. Her devotion to the cause is without all consideration of a financial or economic view. She went out to render service to the cause and they sent her to the penitentiary for ten years. What has she said? Nothing more than I have said here this afternoon. I want to say that if Rose Pastor Stokes is guilty, so am I. If she should be sent to the penitentiary for ten years, so ought I. What did she say? She said that a government could not serve both the profiteers and the employees of the profiteers. Roosevelt has said a thousand times more in his paper, the Kansas City Star. He would do everything possible to discredit Wilson's administration in order to give his party credit. The Republican and Democratic parties are all patriots this fall and they are going to combine to prevent the elec-

tion of any disloyal Socialists. Do you know of any difference between them? One is in, the other is out. That is all the difference.

"Rose Pastor Stokes never said a word she did not have a right to utter, but her message opened the eyes of the people. That must be suppressed. That voice must be silenced. Her trial in a capitalist court was very farci-al. What chance had she in a corporation court with a put-up jury and a corporation tool on the bench?

"If the war was over tomorrow, all the prison doors would open. They were just to silence these voices during the war, and the cases will be pending in court for months, perhaps years. The truth will make the people free and the truth must not be permitted to reach the people. The truth has always been dangerous to the rule of the rogue, to the exploiters. And every time they make an attempt (to attack Socialism) they have ten thousand voices proclaiming that Socialism must live.

(Gets a glass of water from one on the platform.)

"Thank you, comrade. How good the touch of the hand of a comrade is and a sip of water furnished by a comrade! And how good it is to look into your faces this afternoon! You are really good looking to me this afternoon, I assure you. Your tribe has increased wonderfully since I came here. You used to be so few and so far between. When you struck a place the first thing to do was to try to find a Socialist. If he happened to be the only one in town, he now holds a place of honor in the hearts of all now living. Now you can't throw a stone in the dark without hitting a Socialist.

"I went to Warren some years ago. It happened the year President McKinley was assassinated. In common with all others, I deplored that tragic event. There is not a Socialist who would have been guilty of that crime. We do not attack individuals. We have no fight with individuals. We are capable of pitying those who hate us. We do not hate them. We know better. We would hand them a cup of water if they needed it. There is not any room in our hearts for hate, except for a system, a system in which it is impossible for one man to achieve a tremendous fortune while millions and millions struggle for the bare necessities of life. When McKinley was assassinated the ministers met at Portsmouth and passed a resolution that Debs was responsible for the death of McKinley. So all those ministers met and said I was not permitted to come into the city. I went there soon after, however.

"At Warren I was prepared to speak at the hall. I arrived in the evening and was no more than registered when I was ordered to leave the town, as I was not to be permitted to speak there. I sent word to the mayor that I would speak at Warren or I would leave Warren in a box. I went to the hall and the G. A. R. had a special meeting. In the full uniform they sat in the front seats. I went to the hall and made my speech. I told them who was responsible for the assassination. As long as there is misery, caused by robbery at the bottom, there will be assassination at the top. Well, I made the

speech that night. I was back there the other day and the whole population of Warren was there to meet me.

"They who have had the courage to take their places at the front, they who have been true enough to speak the truth that is in them, who have espoused the cause of the suffering, struggling poor, who have upheld the cause of righteousness—they have made the history. They have paved the way to civilization. There are so many who remain on the popular side. They lack the fibre that endures. They are to be pitied and not treated with contempt. Those who have lived and endured that we should live on the earth today, had their bones broken on the wheel and were burned at the stake. We are under obligation to them because of what they suffered for us, and the only way we can cancel that obligation is by doing and seeking today for the interest of everyone who needs us.

"Every Socialist on the face of the earth is animated by the same principles. Everywhere they have the same noble idea, everywhere they are calling one another 'comrade', the noblest word that springs from the heart and soul of unity. The word 'comrade' is getting us into closer touch all along the battle line. They are waging the war on the working class against the ruling class of the world. They conquer difficulties; they grow stronger through them all.

"The heart of the international Socialist never beats a retreat. They are pressing forward here, there, everywhere, in all the zones that girdle this globe. These workers, these class-conscious workers, these children of honest toil are wiping out the boundary lines everywhere. They are proclaiming the glad tidings of the coming emancipation. Everywhere they are having their hearts attuned to the sacred cause; everywhere they are moving toward democracy, moving toward the sunrise, their faces aglow with the light of coming day. These are the men who must guide us in the greatest crisis the world has ever known. They are making history. They are bound upon the emancipating of the human race.

"They have been sufficient to themselves, pressing forward toward the heights. Do you wish to hasten the coming day? Join the Socialist party. Do not wait for the morrow. Come now. Enroll your name. Take your place where you belong. You cannot do your duty by proxy. You have *not* to do it yourself. You will have no occasion to blush. You will know what it is to be a man or a woman. You will lose nothing. You will gain everything. You are very apt to find something. You need to know that you are fit for something better than slavery and cannon fodder. You need to know that you are not created to work and to produce and to impoverish yourself. You need to know that you have a soul to develop. You need to know that it is for you to know something about literature and about science and about art. You need to get in touch with your comrades. You need to become conscious of your own interests. You need to know that as long as you are unorganized industrially and content you will remain exactly where you are.

You will be exploited. You will have to beg for a job and
105 you will get just enough to keep you in working order. And you will be looked down upon in contempt. If you would

be respected you will have to begin by respecting yourself. I would not want to be in the predicament that poor fellow was in who heard a Socialist speech the other day and thought he ought to be a Socialist. The argument was invincible.

" 'Well, all he said was true.'

"But he finally concluded he might lose his job.

" 'I guess I can't afford to take the chance.'

"That night he slept alone. He was in trouble with his conscience. Such men always are. A Socialist always goes to bed with his self-respect and he can look the whole face in the world (the crowd laughs at the unconscious inversion of words) without a tremor.

"This poor fellow had a terrible dream and bounded from his bed and said: 'My God, there is nobody in this room!' And he was absolutely right. No wonder he was terror-stricken. How would you like to sleep in a room with nobody in it?

"There is a great deal of hope for our comrades, Wagenknecht, Ruthenberg and Baker. Anybody can be nobody, but it takes a man to be somebody. Turn your back upon that corrupt Republican party and that still more corrupt Democratic party, the gold-dust twins of the ruling class. Get into a minority party that fights for a cause. Make that change. It will be the most important change you ever made in your life. You will thank me for having made the suggestion. It was a day of days for me. I passed from darkness to light.

"Great, seething, throbbing Russia was transferred from a land of seething darkness to a land of living light. There is something splendid in the prompting of the heart to be true to yourself.

"You are in the crucible today, Mr. Socialist. You are going to be tried, to what extent, no one knows. If you are of weak fibre, that weakness will be found out. We will have to bid good-bye to you. You are not of the stuff of which revolutionists are made. The intellectuals, a good many of them, are all gone. That is no loss to ourselves and no gain to others. In discussing intellectuals let us answer this question: They have been with us for a long while. What will become of the rank and file as soon as the shepherds cease to guide us? 'You are my sheep.' In other words, you are my mutton. They are ruled through the intellectuals in the capitalist parties. If you are in the Republican or Democratic party, you will not be called upon to think. They ride in the carriages; you tramp in the mud. The capitalist system affects to have great regard for intellect. We used to tell the capitalists sometime ago, 'The working class will rule'. We used to say, 'The people ought to own the railroads'. We advocated that twenty years ago. You have got to have brains to operate railroads—and the other day McAdoo fired all the brains. Have you noticed any change since the brains have gone? The railroads are now operated by hand.

"This determines how invaluable is the quality of capitalist brains. They have always given themselves credit for having superior brains. They have had all the brains and all the wealth. As to brain capacity, they are the most woeful people on the face of the earth. But they know how to gouge. And they do it legally, for the reason

that the class which can rob on a large scale has the power to control courts.

"Among other things they tell you to cultivate war gardens. Government reports now show that 52% of the arable, tillable soil is held out of use by the profiteers. They do not allow others to cultivate it. They keep it idle, to enrich themselves. Thus, it
106 makes their land valuable. It is not the fault of the people; it is the fault of the landlords. And while we are upon the subject, think about the landlord. The landlord is the great patriot. He is fighting to make the world safe for democracy. He it is who profits at the expense of the people under the pretense of being a great patriot. It is he whom you need to wipe from power. It is he who diminishes your health and your liberty far more than the Prussian junker on the other side of the ocean. According to their own figures, they will tell you that we will have to export more wheat for the soldiers on the other side.

"They tell you there is a coal famine. The State of Indiana, where I live, is underlaid with coal. The coal is under our feet. All that we can possibly use. The miners are ready to enter the mines. Here is the machinery ready to increase the output to any desired capacity. Aye, only three weeks ago, the officers of the United Mine Workers issued a bulletin to the Labor Department of the United States that the 6,500,000 coal miners of the United States at this time when they tell us of a coal famine, are not permitted to work more than one-half time. I have seen the miners idle. In the meantime there is a scarcity of coal. They tell you to buy your coal now and they charge you three prices for it. Now, we have private ownership of the coal mines, and you ought to have if you vote for the Democratic or Republican ticket. The profiteers want a scarcity of coal. They make money out of a scarcity of coal. The operators say there are no cars and the railroads say there is no coal. And between them they defraud the people. Here is the difficulty. Here are the cars. The Socialist says, 'Take possession of the mines. Set the miners at work. Give the miner all he produces.' The miner works three hundred feet in the earth. The owner of the mine lives in New York or Vienna or Paris. He does not have to do a bit of work. He owns the tools, the machinery and the *nuber*. And that is what you do every time you vote the Democratic or Republican ticket. Let the miner mine the coal and then he gets the full value of his toil. He can then provide himself and his wife and his children with a good home (and plenty to eat). So they continue to charge three prices for coal. If that is the thing you want, you will get it to your heart's content.

"A change is needed, a change of system from despotism to democracy, a change from slavery to freedom; a change from brutehood to brotherhood. To accomplish this you have got to organize, and to organize not along the zig-zag lines laid down by Sam Gompers who, through all of his career, has been on the side of the capitalist class. You never hear the capitalist papers speak of him except in praise. Gompers was always conservative. * * * by

solving the labor situation by the aid of Elihu Root and Andy Ca
negie with whom he drank wine and smoked scab cigars.

"Few men have the courage to say a decent word in favor of t
I. W. W. I have. (Here several in the crowd yelled, 'So have I.

"I have a great respect for the I. W. W. There has been
pamphlet issued called, 'The Truth about the I. W. W.' After lo
investigation by five men who are not Socialists: John Graha
Brooks, Harvard University, Mr. Bruers, government investigato
(other names not noted).

"These men investigated the I. W. W. They have examined i
doings, beginning at Bisbee, Arizona, where the officers deport
five hundred. Just think of the state of mind for which the ca
italist press is responsible.

"When Wall Street yells war, you may rest assured eve
107 pulpit in the land will yell war. The press and the pulp
have in every age and every nation been on the side of t
exploiting class and the ruling class. That's why the I. W. W.
infamous.

"The I. W. W. in its career has never committed as much violen
against the ruling class as the ruling class has committed again
the people. The trial at Chicago is now on and they have not prove
violence in a single solitary case. And yet, one hundred and twel
have been on trial for months and months without a shade of ev
dence. And this is all in its favor. And for this and many oth
reasons, the I. W. W. is fighting the fight of the bottom dog. Fo
the very reason that Gompers is glorified by Wall Street, Bill Hay
wood is despised by Wall Street. What you need is greater organiz
tion.

"In the shop is where the industrial union has its beginning
Organize. Define your capacity. Act together. And when yo
organize industrially you will soon learn that you can manage in
dustry as well as operate industry. You will find that you do no
have to take work from them; you give them work to do. You ca
dispense with them. You ought to own your own tools. Organiz
industrially. Make the organization complete. Unite in the So
cialist party. Vote as you organize. Stand with your party. So
that that party improves the working class, especially this year whe
the forces will clash as they have never clashed before. Take you
place in the ranks. Help to inspire the weak and strengthen th
faltering. Then, when we vote together we will develop the suprem
power of the one class that can bring peace to the world. We wil
transfer the title deeds of the railroads, of the telegraphs, the mine
and the mills. We will transfer them to the people. We will tak
possession in the name of the people. We will have industrial socia
and political democracy. This change will be universal.

"And now for all of us to do our duty. The call is ringing i
your ears. Do not worry over the charge of treason to your mas
ters, but be concerned about the treason that involves yourself. Thi
year we are going to sweep into power and in this nation and we ar
going to destroy capitalistic institutions and re-create them. * *
The world of capital is collapsing. We need industrial builders

We Socialists are the builders of the world that is to be. We are inviting you this afternoon. Join and it will help you.

"In due course of time we will proclaim the emancipation of the brotherhood of all mankind."

108 And the Grand Jurors further present and find that at the time and place aforesaid, before the assembly and persons aforesaid, in the manner and under the circumstances aforesaid, he, the said defendant, did wilfully by utterance and language spoken as herein heretofore in words and substance set forth, urge, incite and advocate the curtailment of production in the United States, of arms, armaments, ammunition and munitions, necessary and essential to the prosecution of the war, in which the United States is engaged as aforesaid, with the intent by such curtailment to cripple and hinder the United States in the prosecution of the war aforesaid; contrary to the form of the Statute of The United States, in such case made and provided, and against the peace and dignity of the United States.

109 *Ninth Count.*

Sec. 3, Title 1, Act of June 15, 1917, as amended by Act of May 16, 1918 (Espionage).

And the Grand Jurors aforesaid, upon their oaths, aforesaid, do further present and find that the said Eugene V. Debs, hereinafter designated the defendant, late of the Division and District aforesaid, heretofore, towit, on or about the 16th day of June, 1918, at the City of Canton, County of Stark, in the State of Ohio, in the Division and District aforesaid, and within the jurisdiction of this court; the United States of America being then and there at war with the Imperial German Government pursuant to a joint resolution of the Congress of the United States, theretofore adopted, and which resolution was approved by the President of the United States on the 6th day of April, A. D. 1917, did then and there unlawfully, wilfully and feloniously advocate, teach, defend and suggest the wilful making and conveying of false reports and false statements with intent to promote the success of the enemy of the United States, towit, The Imperial German Government, and the things alleged and set forth in the first count of this indictment, to which reference is hereby made and which are incorporated herein by reference, the same as if fully set forth and written herein; and the wilful making and conveying of false reports and false statements with intent to interfere with the operation and success of the military and naval forces of the United States, the same as alleged and set forth in the second count of this indictment, to which reference is hereby made and which is hereby incorporated herein by reference, the same as if fully set forth and written herein; the wilful causing and attempting to cause, and inciting and attempting to incite, insubordination, disloyalty, mutiny, and refusal of duty, in the military and naval forces of the United States, the same as alleged and set forth in the third count of this

indictment, to which reference is hereby made and wh
110 hereby incorporated herein by reference, the same as i
set forth and written herein; and the wilful obstructin
attempting to obstruct the recruiting and enlistment service
United States, the same as alleged and set forth in the fourth
of this indictment, to which reference is hereby made and wh
hereby incorporated herein by reference, the same as if fu
forth and written herein; and the wilful uttering and publish
disloyal language about the form of Government of the United
and the Constitution of the United States, and the militar
naval forces of the United States, the same as alleged and set
in the fifth count of this indictment, to which reference is h
made and which is hereby incorporated herein by reference the
as if fully set forth and written herein; and the wilful utterin
publishing of language intended to bring the form of Gover
of the United States, and the Constitution of the United State
the military and naval forces of the United States, and the F
the United States, and the uniform of the Army and Navy
United States into contempt, scorn, contumely and disrepute
same as alleged and set forth in the sixth count of this indict
to which reference is hereby made and which is hereby incorpo
herein by reference, the same as if fully set forth and written h
and the wilful uttering and publishing of language intend
incite, provoke and encourage resistance to the United States a
promote the cause of its enemy, the same as alleged in the se
count of this indictment, to which reference is hereby made
which is hereby incorporated herein by reference, the same
fully set out and written herein; and wilfully, by utterance and
guage spoken, urge, incite and advocate the curtailment of pr
tion in the United States of Arms, armament, ammunition
munitions, necessary and essential to the prosecution o
111 war in which the United States is engaged, with inte
such curtailment to cripple and hinder the United Stat
the prosecution of the war, the same as alleged and set forth i
eighth count of this indictment, to which reference is hereby
and which is hereby incorporated herein by reference, the sa
if fully set forth and written herein; and wilfully by words
language spoken oppose the cause of the United States in the
with the Imperial German Government, as alleged and set forth i
tenth count of this indictment, to which reference is hereby
and which is hereby incorporated herein by reference, the sa
if fully set forth and written herein; that is to say, he, the said
fendant, did state, utter, publish and say, advocating, teaching
pending and suggesting the doing of all the acts and things he
before set forth, in a public speech and address, at the time and
aforesaid, to a certain assembly of people, among whom were
R. Miller, and Dennis R. Smith, then and there being citizen
the United States, and then and there being persons between
ages to twenty-one and thirty, both inclusive, and then and
being persons liable to military duty under the provisions of
Act of Congress, approved May 18, 1917, and divers other pers

part of whom then and there being citizens of the United States, and part of whom then and there being persons between the ages of twenty-one and thirty, both inclusive, and then and there being persons liable to military duty under the provisions of the Act of Congress approved May 18, 1917, whose names are to the Grand Jurors unknown, and if known, are too numerous to mention herein, and for that reason are omitted, which said public speech and address so stated, uttered, published and said, as aforesaid, at the time and place aforesaid, to the persons aforesaid, and in the manner and under the circumstances aforesaid, in words and substances, is as follows, that is to say:

112 "Comrades, Friends and Fellow-Workers:—

"For this very cordial greeting, this very hearty reception, I thank you all with the fullest appreciation of your interest in your devotion to the cause for which I am to speak to you this afternoon. To speak for labor, to plead the cause of the men and women and children who toil, to serve the working class, has always been to me a high privilege, a duty of love.

"I have just returned from a visit from yonder (pointing to workhouse) where three of our most loyal comrades are paying the penalty for their devotion to the cause of the working class. They have come to realize, as many of us have, that it is extremely dangerous to exercise the constitutional right of free speech in a country fighting to make democracy safe for the world. I realize in speaking to you this afternoon that there are certain limitations placed upon the right of free speech. I must be extremely careful, prudent, as to what I say, and even more careful and prudent as to how I say it. I may not be able to say all I think, but I am not going to say anything that I do not think. And I would rather a thousand times be a free soul in jail than a sycophant or coward on the streets. They may put those boys in jail and some of the rest of us in jail, but they cannot put the Socialist movement in jail. Those prison bars separate their bodies from ours, but their souls are here this afternoon. They are simply paying the penalty that all men have paid in all of the ages of history for standing erect and seeking to pave the way for better conditions for mankind.

"If it had not been for the men and women who, in the past, have had the moral courage to go to jail, we would still be in the jungles.

"This assembly is exceedingly good to look upon. I wish it were possible to give you what you are giving me this afternoon. What I say here amounts to but little. What I see here is exceedingly important. You workers here in Ohio, enlisted in the greatest cause ever organized in the interests of your class, are making history today in the face of threatening trouble of all kinds, history that is going to be read with profound interest by the coming generation. There is but one thing that you have to be concerned about, and that is that you keep four-square with the principles of the international Socialistic movement. It is only when you begin to compromise that trouble begins. So far as I am concerned, it does not matter what

others may say or think or do, as long as I am sure that I a
with myself and the cause.

"There are so many who seek refuge in the popular side of
question. I am not of that number. As a Socialist I have lo
learned how to stand alone.

"For the last month I have been traveling over the Hoo-i
and let me say that in all my connections with the Socialis
ment, I have never seen such enthusiasm, such unity of mo
such a promising outlook as there is today. Notwithstand
statement published by the capitalist press that our leaders
serted, I wish to say for myself I never had very much
leaders anyway. I am willing to be charged with almost a
rather than be charged with being a leader. I am suspi
leaders, especially all the intellectual file. Give me the rank
every day in the week. Go to the City of Washington and
the files there and you will find that the corporation lawyers
bers of congress and misrepresentatives of the masses—all
claim that they have risen from the ranks. I am so glad
cannot make that claim for myself. When I rise, it
113 with the ranks and not from the ranks.

"When I came away from Indiana, the comrad
'When you cross the line, tell those comrades that we are
and doing duty and are going to make a record this fall th
be heard around the world.'

"The Socialists of Ohio are very much alive this year. Th
has been 'killed' this year, which accounts for its extraordinar
ity. This naturally helps a party. The oftener it is killed, th
energetic and more powerful they become. We have been
capitalist newspapers lately, and what a capacity they have fo
They know all about the Socialist party except what is true.
the other day, they took an article that I had written and
you have read, and made it appear that I had undergone a
ous transformation. I had suddenly come to my senses, had
to be a wicked Socialist and had become a respectable Soci
patriotic Socialist—as if I had ever been anything else. Wh
the purpose of this deliberate misrepresentation? It is so s
dent that it was against itself. It was to sow dissatisfaction
our ranks, so that we would pit ourselves against each other
mutual undoing. But Socialists were not born yesterday.
know how to read capitalists' newspapers, and to believe exac
opposite of what they read.

"Why should a Socialist be discouraged on the eve of the g
triumph of all the history of the Socialist movement? It is tr
these are anxious, trying days for us all, testing those who a
holding the banner of the working class in the greatest strug
world has ever known against the exploiters of the world; a t
which the weak, the cowardly, will falter and fail and desert.
lack the fibre to endure the revolutionary test. They fall
They disappear as if they had never been.

"On the other hand, they who are animated with the unco
able spirit of the Social revolution, they who have the moral e

to stand erect, to assert their convictions, to stand by them, to go to jail or to hell for them—they are writing their names in this crucial hour, they are writing their names in fadeless letters in the history of mankind. Those boys over yonder, those comrades of ours—and how I love them—aye, they are our younger brothers, their names are seared in our souls.

"I am proud of them. They are there for us and we are here for them. Their lips, though temporarily mute, are more eloquent than ever before, and their voices, though silent, are heard around the world.

"Are we opposed to Prussian militarism? Why, we have been fighting it since the day the Socialist movement was born and we are going to continue to fight it today and until it is wiped from the face of the earth. Between us there is no truce, no compromise, but before I proceed along this line, let me recall a little history in which we are all interested.

"In 1869, that grand old warrior of the Socialist revolution, the elder Liebknecht, was arrested and sent to prison for three months because of his war as a Socialist on the Kaiser and the Junkers that ruled Germany. In the meantime, the Franco-Prussian war broke out. Liebknecht and Badel were the Socialist members of the Reichstag. They were the only two to protest against the taking of Alsace-Lorraine from France and giving it to Germany. They were taken from the Reichstag and sent to prison for two years. For four years previous to this, they had been fighting the Kaiser and the Junkers of Germany. They have fought them from that day to this. Thousands of them have languished in the prisons for war on the ruling classes of that country.

"Let us come down the line. At the close of Roosevelt's second term as President, he went over to Africa to make war on some of his ancestors. You remember at the close of his expedition, he visited all of the capitals of Europe and he was wined, dined, dignified and glorified by the Kaiser, kings and czars of the old world. He visited Potsdam while the Kaiser was there and, according to the account published in the American newspapers, he and the Kaiser were soon on the most intimate terms. They were hilariously intimate with each other. They slapped each other on the back. After Roosevelt had effused over the German troops, he remarked to the Kaiser, 'If I had that kind of an army, I would conquer the world.' He knew the Kaiser as well as he knows him now and yet he permitted himself to be entertained by the Beast of Berlin. He was cheek by jowl with the Beast of Berlin. And while he was being entertained by the Beast of Berlin, that same Kaiser was putting Socialist leaders in jail for fighting Kaiserism. Roosevelt was a guest of honor of the Kaiser while the Socialists were in the jail for fighting the Kaiser. Who was fighting against the Kaiser? Roosevelt? No. It was the Socialists.

"When the newspapers reported that Kaiser Wilhelm and Ex-President Theodore Roosevelt recognized each other at sight, at the first touch, they made admission that they are fatal to the champions of democracy. They admitted that their ideas and ideals were about

the same. While Theodore Roosevelt, who is now the g
pion of democracy, the arch foe of autocracy, what busin
as the guest of honor of the Kaiser and was it not pretty st
that he was a Kaiser at heart? After being the guest of t
he wants us to send 10,000,000 men to murder the Kaiser,
his former friend and pal. And yet he is the patriot and
traitors. I challenge you to find any Socialist who was eve
of the Kaiser, except as one of his prison wards.

"In 1902, Prince Henry paid a visit to this country. I
member him? I do. Exceedingly well. Prince Hen
brother of King Wilhelm. He is an autocrat; an aristocrat
of Junkers. He came over in 1902 as the representative
Wilhelm. He was received by Congress, by several State le
among others the State legislature of Massachusetts, then
He was invited there by the members of the legislature.
Prince Henry came there, there was one member who ke
respect, put on his hat, and as Prince Henry walked in,
out, and that man was James F. Carey, and all the rest of
sentatives joined in doing honor in the most servile spirit to
representative of autocracy, and Carey was the only one wh
meeting.

"You will remember history along the same line. I h
tinct recollection. It occurred just 15 years ago. Wh
Henry came here, all of our plutocracy, living along Fift
threw their palace doors wide open and received him with
They got down on their stomachs and vied with each oth
the boots of Prince Henry, the representative of the Beast

"Do not imagine for one moment that all the plut
Junkers are all in Germany; we have them here in our ow
and these want to keep our eyes focused upon the Junke
many so we won't see those within our own border. I
earthly use for the Junkers of Germany and not one part
use for the Junkers in the United States.

115 "They tell us that we live in a great republic,
stitutions are democratic. We are a free people. T
much, even as a joke. It is not a subject for levity; it is a
ingly serious matter.

"To whom do the Wall Street Junkers in our country,
do they marry their daughters? After they have wrung
dreds of millions from your sweat and from your life bloo
of war as well as peace, they invest these millions in th
broken-down aristocrats, and to buy counts of no-account.
satisfied to wed their daughters to honest workmen? To n
crats? They scour the markets of Europe for those who h
and nothing else, and they swap their titles for money.
swap their matrimony for more money, while the plutocra
country scan the country with their magnifying glasses for
of disloyalty. Patriotism is the last refuge of scoundrels
been the tyrant who wrapped himself in a cloak of religion
otism, or both. They would have you believe that the Socia
consists in the main of disloyalists and traitors. It is true,

tain sense. We are disloyalists and traitors to the real t
this nation. And the gang on the Pacific coast are trying
Tom Mooney in spite of the protests of the civilized world.

"I know Tom Mooney. He is an absolutely honest, innoc
He had no more to do with the crime with which he was
than I have and if he ought to go to the gallows, so ought
is he guilty of? I will tell you. For years he has been figl
battles of the working class out on the Pacific coast. He e
loyally in the service of the working class. They said, 'H
be bought; he refuses to be bribed. Therefore, he must
dered.'

"Let us review another bit of history. Do you rememb
Francis J. Heney was shot down in the court-rooms of S
cisco? A committee of high-binders, composed largely of
of the Chamber of Commerce, absolutely controlled the cour
Francisco. They did not hesitate to commit murder to furth
murderous regime. Tom Mooney was the only representativ
working class that they could not control. They owned the
they controlled the industries; they were the rulers and fr
there was no appeal. And they were as infamous as any ru
ruled in Germany or any other country. At last a grand
found that would indict them, and Francis J. Heney, who
selected by the National Administration to assist in the pros
this same gang controlled by the Chamber of Commerce, t
hired a murderer to shoot Francis J. Heney down in the co
and he did. Francis J. Heney happened to live, but that
fault of theirs. The same gang are also for the execution
Mooney. Every solitary one of them claims to be an arch
Everyone of them claims he is trying to make democracy saf
world. What humbug! What rot! What false pretenc
patriots are the men who have the courage to stand face to
fight them, and they call them disloyalists and traitors, an
be true. I want to take my place side by side with the traitor
country.

"Why, the other day they sent a woman to Wichita peni
for ten years. Just think of sentencing a woman to the peni
for talking. The United States under the rule of the plut
the only country which would send a woman to the penitent
ten years for exercising the right to free speech. If this be
let them make the most of it. Let me review another bit of
I have known this woman for ten years. Personally I know
if she were my own younger sister. She is a woman of
integrity. She is a woman of courage. She is a woman o
peachable loyalty to the Socialist movement. She w
116 into Dakota and made her speech, followed by plain
men in the service of the government, intent upon
passing her arrest, prosecution and conviction. She made a
speech and that speech was deliberately misrepresented for t
pose of securing her conviction. The only testimony was th
hired witness. And thirty farmers who went to Bismarck to
in her favor, the judge refused to allow to testify. This woul

incredible to me if I had not some experience of my own with a Federal court. Who appoints the Federal courts? The people? Every solitary one of them holds his position through influence and power of corporation capital. And when they go to the bench, they go there not to serve the people, but to serve the interests who sent them. The other day, by a vote of five to four, they declared the Child Labor Law unconstitutional; a law secured after twenty years of education and agitation by all kinds of people, and yet by a majority of one, the Supreme Court, a body of corporation lawyers, with just one solitary exception, wiped it from the Statute books, so that we may still continue to grind the blood of little children into profit for the Junkers of Wall Street, and this in a country that is now fighting to make democracy safe for the world. These are not palatable truths to them. And they do not want you to hear them and that is why they brand us as traitors and disloyalists. If we were not traitors to the people, we would be eminently respectable citizens and ride in limousines. It is precisely because we are disloyal to the traitors that we are not disloyal to the people of this country.

"You have heard of Scott Nearing. He is the greatest teacher in the United States. He was in the University of Pennsylvania until the Board of Trustees, composed of great capitalists, found he was teaching true economics to the students of that university, as the same forces said of a Judean carpenter nineteen centuries ago. They said of Jesus Christ, who was a workman and teacher, they said, 'He is preaching a false religion,' and his lineal descendants said, 'He is preaching false economics.' 'We cannot crucify him so we will starve him to death. We will make it impossible for him to get a job. He is a dangerous man. He is teaching the truth.' The truth is always unpalatable to these plutocrats, who make their living by the sweat of the working class.

"They are afraid that we might contaminate you. You are their wards. They are their own guardians. They must see that our vicious doctrines do not reach your ears. What a mistake they make. We ought to pass a resolution of thanks and send it to them. Those are the people who want to seize our paper. And woe to the man who reads Socialist literature. He is a goner. I have known of a thousand experiments but I have never known of a single experiment to escape it. Let me tell you about John Werk, of Milwaukee. The capitalists of Milwaukee said to John, 'We have got to find out about Socialism. John, you are a bright, young lawyer; we want you to find out all about Socialist literature.' After reading the Socialist volume, John was a full-fledged Socialist and has been fighting for us ever since.

"How short-sighted the ruling class is. The exploiter cannot see beyond the end of his nose. He has just cunning enough to know what graft is and where it is but he has no vision. You know this is a great throbbing world that spreads out in all directions. Look at Rockefeller. Every move he makes hastens the coming of his doom. Every time the capitalist class tries to hinder the cause of Socialism they hurt themselves. Every time they strangle a Socialist newspaper they add a thousand voices to those which are aiding So-

cialism. The Socialist has a great idea. An expanding philosophy.
It is spreading over the face of the earth. It is useless to
117 resist it as it is to resist the rising sunrise. Can you see it?
If you cannot you are lacking in vision, in understanding. What a privilege it is to serve it. I have regretted a thousand times I can do so little for the movement that has done so much for me. The little that I am, the little that I am hoping to be, is due wholly to the Socialist movement. It gave me my ideas and my ideals, and I would not exchange one of them for all the Rockefeller blood-stained dollars. It taught me how to serve; a lesson to me of priceless value. It taught the ecstasy of the hand-clasp of the comrade. It made it possible for me to get in touch with you, to multiply myself over and over again; to open the avenue to spread out the glorious vistas; to know that I am kin with all that throbs, that becomes class conscious. Every man who toils, everyone of them, is my comrade. To serve them is the highest duty of my life. And in their service I can feel myself expanding. I rise to the stature of a man. Yes, my heart is attuned to yours. All of our hearts are melted into one great heart which throbs to the response of the people.

"Here I hear your heart beats responsive to the Bolsheviki of Russia. (Applause.) Yes, those heroic men and women, those unconquerable comrades, who have by their sacrifice added fresh lustre to the international movement. Those Russian comrades who have made greater sacrifices, who have suffered more, who have shed more heroic blood than any like number of men and women anywhere else on earth. They have led the first real convention of any democracy that ever drew breath. The first act of that memorable revolution was to proclaim a state of peace with an appeal not to the kings, not to the rulers, but an appeal to the people of all nations. They are the very breath of democracy; the quintessence of freedom. They made their appeal to the people of all nations, the Allies as well as the Central Powers, to send representatives to lay down terms of a peace that should be lasting. Here was a fine opportunity to strike a blow to make democracy safe to the world. Was there any response to that noble appeal? And here let me say that appeal will be written in letters of gold in the history of the world. While it has been charged that the leader made a traitorous peace with Germany, let us consider this proposition briefly. At the time of the revolution, Russia had lost 4,000,000 of her soldiers. She was absolutely bankrupt. Her soldiers were without arms. This was what was bequeathed to the revolution by the Czar. For this condition, Leon Trotski was not responsible nor was the Bolshevik movement, but the czar was.

"When Leon Trotski came into power, he found the secret treaties made between the French government and the British government and the Italian government which was to divide the territory of the Central Powers if the Allies were victorious, and these secret treaties have not been repudiated up to this time. Very little has been said about them in the American newspapers. This shows that the purpose of the Allies is exactly the purpose of the Central Powers.

"Wars have been waged for conquests, for plunder, and since the feudal ages along the Rhine, the feudal lords made war upon each other. They wanted to enlarge their domains, to increase their power and their wealth and so they declared war upon each other. But they did not go to war any more than the Wall Street Junkers go to war. Their predecessors declared the wars, but their miserable serfs fought the wars. The serfs believed that it was their patriotic duty to fall upon one another, to wage war upon one another. And that is war in a nutshell. The master class has always brought a war and the subject class has fought the battle. The master class has had all to gain and nothing to lose, and the subject class
118 has all to lose and nothing to gain. They have always taught you that it is your patriotic duty to go to war and slaughter yourselves at their command. You have never had a voice in the war. The working class who make the sacrifices, who shed the blood, have never yet had a voice in declaring war. The ruling class has always made the war and made the peace.

"Yours not to question why,
Yours but to do and die.

"Another bit of history I want to review is that of Rose Pastor Stokes, another inspiring comrade. She had her millions of dollars. Her devotion to the cause is without all consideration of a financial or economic view. She went out to render service to the cause and they sent her to the penitentiary for ten years. What has she said? Nothing more than I have said here this afternoon. I want to say that if Rose Pastor Stokes is guilty, so am I. If she should be sent to the penitentiary for ten years, so ought I. What did she say? She said that a government could not serve both the profiteers and the employees of the profiteers. Roosevelt has said a thousand times more in his paper, the Kansas City Star. He would do everything possible to discredit Wilson's administration in order to give his party credit. The Republican and Democratic parties are all patriots this fall and they are going to combine to prevent the election of any disloyal Socialists. Do you know of any difference between them? One is in, the other is out. That is all the difference.

"Rose Pastor Stokes never said a word she did not have a right to utter, but her message opened the eyes of the people. That must be suppressed. That voice must be silenced. Her trial in a capitalist court was very farcical. What chance had she in a corporation court with a put-up jury and a corporation tool on the bench?

"If the war was over tomorrow, all the prison doors would open. They were just to silence these voices during the war, and the cases will be pending in court for months, perhaps years. The truth will make the people free and the truth must not be permitted to reach the people. The truth has always been dangerous to the rule of the rogue, to the exploiters. And every time they make an attempt (to attack Socialism) they have ten thousand voices proclaiming that Socialism must live.

(Gets a glass of water from one on the platform.)

"Thank you, comrade. How good the touch of the hand of a comrade is and a sip of water furnished by a comrade! And how

good it is to look into your faces this afternoon! You are really good looking to me this afternoon, I assure you. Your tribe has increased wonderfully since I came here. You used to be so few and so far between. When you struck a place the first thing to do was to try to find a Socialist. If he happened to be the only one in town, he now holds a place of honor in the hearts of all now living. Now you can't throw a stone in the dark without hitting a Socialist.

"I went to Warren some years ago. It happened the year President McKinley was assassinated. In common with all others, I deplored that tragic event. There is not a Socialist who would have been guilty of that crime. We do not attack individuals. We have no fight with individuals. We are capable of pitying those who hate us. We do not hate them. We know better. We would hand them a cup of water if they needed it. There is not any room in our hearts for hate, except for a system, a system in which it is impossible for one man to achieve a tremendous fortune while millions and millions struggle for the bare necessities of life. When McKinley was assassinated the ministers met at Portsmouth and passed a resolution that Debs was responsible for the death of McKinley. So all those ministers met and said I was not permitted to come into the city. I went there soon after, however.

"At Warren I was prepared to speak at the hall. I arrived in the evening and was no more than registered when I was ordered to leave the town, as I was not to be permitted to speak there. I sent word to the mayor that I would speak at Warren or I would leave Warren in a box. I went to the hall and the G. A. R. had a special meeting. In the full uniform they sat in the front seats. I went to the hall and made my speech. I told them who was responsible for the assassination. As long as there is misery, caused by robbery at the bottom, there will be assassination at the top. Well, I made the speech that night. I was back there the other day and the whole population of Warren was there to meet me.

"They who have had the courage to take their places at the front, they who have been true enough to speak the truth that is in them, who have espoused the cause of the suffering, struggling poor, who have upheld the cause of righteousness—they have made the history. They have paved the way to civilization. There are so many who remain on the popular side. They lack the fibre that endures. They are to be pitied and not treated with contempt. Those who have lived and endured that we should live on the earth today, had their bones broken on the wheel and were burned at the stake. We are under obligation to them because of what they suffered for us, and the only way we can cancel that obligation is by doing and seeking today for the interest of everyone who needs us.

"Every Socialist on the face of the earth is animated by the same principles. Everywhere they have the same noble idea, everywhere they are calling one another 'comrade', the noblest word that springs from the heart and soul of unity. The word 'comrade' is getting us into closer touch all along the battle line. They are waging the war on the working class against the ruling class of the world. They conquer difficulties; they grow stronger through them all.

"The heart of the international Socialist never beats a retreat They are pressing forward here, there, everywhere, in all the zones that girdle this globe. These workers, these class-conscious workers these children of honest toil are wiping out the boundary lines everywhere. They are proclaiming the glad tidings of the coming emancipation. Everywhere they are having their hearts attuned to the sacred cause; everywhere they are moving toward democracy, moving toward the sunrise, their faces aglow with the light of coming day. These are the men who must guide us in the greatest crisis the world has ever known. They are making history. They are bound upon the emancipating of the human race.

"They have been sufficient to themselves, pressing forward toward the heights. Do you wish to hasten the coming day? Join the Socialist party. Do not wait for the morrow. Come now. Enroll your name. Take your place where you belong. You cannot do your duty by proxy. You have got to do it yourself. You will have no occasion to blush. You will know what it is to be a man or a woman. You will lose nothing. You will gain everything. You are very apt to find something. You need to know that you are fit for something better than slavery and cannon fodder. You need to know that you are not created to work and to produce and to impoverish yourself. You need to know that you have a soul to develop. You need to know that it is for you to know something about literature and about science and about art. You need to get in touch with your comrades. You need to become conscious of your own interests. You need to know that as long as you are unorganized industrially and content you will remain exactly where you are.

You will be exploited. You will have to beg for a job and
120 you will get just enough to keep you in working order. And
you will be looked down upon in contempt. If you would be respected you will have to begin by respecting yourself. I would not want to be in the predicament that poor fellow was in who heard a Socialist speech the other day and thought he ought to be a Socialist. The argument was invincible.

" 'Well, all he said was true.'

"But he finally concluded he might lose his job.

" 'I guess I can't afford to take the chance.'

"That night he slept alone. He was in trouble with his conscience. Such men always are. A Socialist always goes to bed with his self-respect and he can look the whole face in the world (the crowd laughs at the unconscious inversion of words) without a tremor.

"This poor fellow had a terrible dream and bounded from his bed and said: 'My God, there is nobody in this room!' And he was absolutely right. No wonder he was terror-stricken. How would you like to sleep in a room with nobody in it?

"There is a great deal of hope for our comrades, Wagenknecht, Ruthenberg and Baker. Anybody can be nobody, but it takes a man to be somebody. Turn your back upon that corrupt Republican party and that still more corrupt Democratic party, the gold-dust twins of the ruling class. Get into a minority party that fights for a cause. Make that change. It will be the most important change

you ever made in your life. You will thank me for having made the suggestion. It was a day of days for me. I passed from darkness to light.

"Great, seething, throbbing Russia was transferred from a land of seething darkness to a land of living light. There is something splendid in the prompting of the heart to be true to yourself.

"You are in the crucible today, Mr. Socialist. You are going to be tried, to what extent, no one knows. If you are of weak fibre, that weakness will be found out. We will have to bid good-bye to you. You are not of the stuff of which revolutionists are made. The intellectuals, a good many of them, are all gone. That is no loss to ourselves and no gain to others. In discussing intellectuals, let us answer this question: They have been with us for a long while. What will become of the rank and file as soon as the shepherds cease to guide us? 'You are my sheep.' In other words, you are my mutton. They are ruled through the intellectuals in the capitalist parties. If you are in the Republican or Democratic party, you will not be called upon to think. They ride in the carriages; you tramp in the mud. The capitalist system affects to have great regard for intellect. We used to tell the capitalists sometime ago, 'The working class will rule'. We used to say, 'The people ought to own the railroads'. We advocated that twenty years ago. You have got to have brains to operate railroads—and the other day McAdoo fired all the brains. Have you noticed any change since the brains have gone? The railroads are now operated by hand.

"This determines how invaluable is the quality of capitalist brains. They have always given themselves credit for having superior brains. They have had all the brains and all the wealth. As to brain capacity, they are the most woeful people on the face of the earth. But they know how to gouge. And they do it legally, for the reason that the class which can rob on a large scale has the power to control courts.

"Among other things they tell you to cultivate war gardens. Government reports now show that 52% of the arable, tillable soil is held out of use by the profiteers. They do not allow others to cultivate it. They keep it idle, to enrich themselves. Thus, it 121 makes their land valuable. It is not the fault of the people: it is the fault of the landlords. And while we are upon the subject, think about the landlord. The landlord is the great patriot. He is fighting to make the world safe for democracy. He it is who profits at the expense of the people under the pretense of being a great patriot. It is he whom you need to wipe from power. It is he who diminishes your health and your liberty far more than the Prussian junker on the other side of the ocean. According to their own figures, they will tell you that we will have to export more wheat for the soldiers on the other side.

"They tell you there is a coal famine. The State of Indiana, where I live, is underlaid with coal. The coal is under our feet. All that we can possibly use. The miners are ready to enter the mines. Here is the machinery ready to increase the output to any desired capacity. Aye, only three weeks ago, the officers of the United Mine

Workers issued a bulletin to the Labor Department of the Uni
States that the 600,000 coal miners of the United States at this ti
when they tell us of a coal famine, are not permitted to work m
than one-half time. I have seen the miners idle. In the me
time there is a scarcity of coal. They tell you to buy your coal n
and they charge you three prices for it. Now, we have private ow
ership of the coal mines, and you ought to have if you vote for
Democratic or Republican ticket. The profiteers want a scarcity
coal. They make money out of a scarcity of coal. The operat
say there are no cars and the railroads say there is no coal. A
between them they defraud the people. Here is the difficulty. H
are the cars. The Socialist says, 'Take possession of the mines.
the miners at work. Give the miner all he produces.' The min
works three hundred feet in the earth. The owner of the mine li
in New York or Vienna or Paris. He does not have to do a bit
work. He owns the tools, the machinery and the *nuber*. And t
is what you do every time you vote the Democratic or Republic
ticket. Let the miner mine the coal and then he gets the full va
of his toil. He can then provide himself and his wife and his ch
dren with a good home (and plenty to eat). So they continue
charge three prices for coal. If that is the thing you want, you w
get it to your heart's content.

"A change is needed, a change of system from despotism to
mocracy, a change from slavery to freedom; a change from bru
hood to brotherhood. To accomplish this you have got to organi
and to organize not along the zig-zag lines laid down by Sam Go
pers who, through all of his career, has been on the side of the c
italist class. You never hear the capitalist papers speak of h
except in praise. Gompers was always conservative. * * *
solving the labor situation by the aid of Elihu Root and Andy C
negie with whom he drank wine and smoked scab cigars.

"Few men have the courage to say a decent word in favor of t
I. W. W. I have. (Here several in the crowd yelled, 'So have I

"I have a great respect for the I. W. W. There has been
pamphlet issued called, 'The Truth about the I. W. W.' After lo
investigation by five men who are not Socialists: John Graha
Brooks, Harvard University, Mr. Bruers, government investigato
(other names not noted).

"These men investigated the I. W. W. They have examined
doings, beginning at Bisbee, Arizona, where the officers deport
five hundred. Just think of the state of mind for which the capital
press is responsible.

"When Wall Street yells war, you may rest assured eve
122 pulpit in the land will yell war. The press and the pulp
have in every age and every nation been on the side of t
exploiting class and the ruling class. That's why the I. W. W.
infamous.

"The I. W. W. in its career has never committed as much violen
against the ruling class as the ruling class has committed again
the people. The trial at Chicago is now on and they have not prov
violence in a single solitary case. And yet, one hundred and twel

have been on trial for months and months without a shade of evidence. And this is all in its favor. And for this and many other reasons, the I. W. W. is fighting the fight of the bottom dog. For the very reason that Gompers is glorified by Wall Street, Bill Haywood is despised by Wall Street. What you need is greater organization.

"In the shop is where the industrial union has its beginning. Organize. Define your capacity. Act together. And when you organize industrially you will soon learn that you can manage industry as well as operate industry. You will find that you do not have to take work from them; you give them work to do. You can dispense with them. You ought to own your own tools. Organize industrially. Make the organization complete. Unite in the Socialist party. Vote as you organize. Stand with your party. See that that party improves the working class, especially this year when the forces will clash as they have never clashed before. Take your place in the ranks. Help to inspire the weak and strengthen the faltering. Then, when we vote together we will develop the supreme power of the one class that can bring peace to the world. We will transfer the title deeds of the railroads, of the telegraphs, the mines and the mills. We will transfer them to the people. We will take possession in the name of the people. We will have industrial, social and political democracy. This change will be universal.

"And now for all of us to do our duty. The call is ringing in your ears. Do not worry over the charge of treason to your masters, but be concerned about the treason that involves yourself. This year we are going to sweep into power and in this nation and we are going to destroy capitalistic institutions and re-create them. * * * The world of capital is collapsing. We need industrial builders. We Socialists are the builders of the world that is to be. We are inviting you this afternoon. Join and it will help you.

"In due course of time we will proclaim the emancipation of the brotherhood of all mankind."

123 And the Grand Jurors aforesaid, further present and find that at the time and place aforesaid, and in the manner and under the circumstances aforesaid, and to the assembly and persons aforesaid, he, the said defendant did wilfully teach, advocate, defend and suggest the wilful making and conveying of false reports and false statements with intent to promote the success of the enemy of the United States, towit, The Imperial German Government, and the things alleged and set forth in the first count of this indictment, to which reference is hereby made and which are incorporated herein by reference, the same as if fully set forth and written herein; and the wilful making and conveying of false reports and false statements with intent to interfere with the operation and success of the military and naval forces of the United States, the same as alleged and set forth in the second count of this indictment, to which reference is hereby made and which is hereby incorporated herein by reference, the same as if fully set forth and written herein; the wilful

causing and attempting to cause and inciting and attempting to
cite, insubordination, disloyalty, mutiny, and refusal of duty in
military and naval forces of the United States, the same as alle
and set forth in the third count of this indictment, to which re
ence is hereby made and which is hereby incorporated herein by
erence, the same as if fully set forth and written herein; and
wilful obstructing and attempting to obstruct the recruiting and
listment service of the United States, the same as alleged and set fo
in the fourth count of this indictment, to which reference is her
made and which is hereby incorporated herein by reference,
same as if fully set forth and written herein; and the wilful utter
and publishing of disloyal language about the form of Governm
of the United States and the Constitution of the United States,
the military and naval forces of the United States, the same as alle
and set forth in the fifth count of this indictment, to wh
124 reference is hereby made and which is hereby incorpora
herein by reference the same as if fully set forth and writ
herein; and the wilful uttering and publishing of language inten
to bring the form of Government of the United States, and the
stitution of the United States, and the military and naval force
the United States, and the Flag of the United States, and the
form of the Army and Navy of the United States into conte
scorn, contumely and disrepute, the same as alleged and set fo
in the sixth count of this indictment, to which reference is her
made and which is hereby incorporated herein by reference, the sa
as if fully set forth and written herein; and the wilful uttering
publishing of language intended to incite, provoke and encour
resistance to the United States, and to promote the cause of its
emy, the same as alleged in the seventh count of this indictment,
which reference is hereby made and which is hereby incorpora
herein by reference, the same as if fully set out and written here
and wilfully, by utterance and language spoken, urge, incite
advocate the curtailment of production in the United States, of ar
armament, ammunition and munitions necessary and essential
the prosecution of the war in which the United States is engag
with intent by such curtailment to cripple and hinder the Uni
States in the prosecution of the war, the same as alleged and set fo
in the eighth count of this indictment, to which reference is her
made and which is hereby incorporated herein by reference, the sa
as if fully set forth and written herein; and wilfully by words
language spoken oppose the cause of the United States in the
with the Imperial German Government, as alleged and set forth
the tenth count of this indictment, to which reference is her
made and which is hereby incorporated herein by reference, the sa
as if fully set forth and written herein; contrary to the fo
125 of the Statute of the United States in such case made
provided, and against the peace and dignity of the Uni
States.

126 *Tenth Count.*

Sec. 3, Title 1, Act of June 15, 1917, as amended by Act of May 16, 1918. (Espionage.)

And the Grand Jurors aforesaid, upon their oaths, aforesaid, do further present and find that the said Eugene V. Debs, hereinafter designated the defendant, late of the Division and District aforesaid, heretofore, towit, on or about the 16th day of June, 1918, at the City of Canton, County of Stark, in the State of Ohio, in the Division and District aforesaid, and within the jurisdiction of this court; the United States of America being then and there at war with the Imperial German Government pursuant to a joint resolution of the Congress of the United States, theretofore adopted, and which resolution was approved by the President of the United States, on the 6th day of April, A. D. 1917, did then and there unlawfully, wilfully and feloniously by words and language spoken, oppose the cause of the United States in the war with the Imperial German Government as aforesaid, that is to say, the said defendant at the time and place aforesaid, in a public speech and address, to a certain assembly of people, among whom were Clyde R. Miller, and Dennis R. Smith, then and there being citizens of the United States, and then and there being persons between the ages of twenty-one and thirty, both inclusive, and then and there being persons liable to military duty under the provisions of the Act of Congress approved May 18, 1917 and divers other persons, part of whom then and there being citizens of the United States, and part of whom then and there being persons between the ages of twenty-one and thirty, both inclusive, and then and there being persons liable to military duty under the provisions of the Act of Congress approved May 18, 1917, whose names are to the Grand Jurors unknown, and if known, are too numerous to mention herein, and for that reason are omitted, which said public speech and address

127 so stated, uttered, published and said as aforesaid, at the time and place aforesaid; to the persons aforesaid, and in the manner and under the circumstances aforesaid, in words and substance is as follows, that is to say:

128 "Comrades, Friends and Fellow-Workers:—

"For this very cordial greeting, this very hearty reception, I thank you all with the fullest appreciation of your interest in and your devotion to the cause of which I am to speak to you this afternoon. To speak for labor, to plead the cause of the men and women and children who toil, to serve the working class, has always been to me a high privilege, a duty of love.

"I have just returned from a visit from yonder (pointing to workhouse) where three of our most loyal comrades are paying the penalty for their devotion to the cause of the working class. They have come to realize, as many of us have, that it is extremely dangerous to exercise the constitutional right of free speech in a country fighting to make democracy safe for the world. I realize in speaking

to you this afternoon that there are certain limitations pla
the right of free speech. I must be extremely careful, pr
to what I say, and even more careful and prudent as to how
I may not be able to say all I think, but I am not going to
thing that I do not think. And I would rather a thousand
a free soul in jail than a sycophant or coward on the stree
may put those boys in jail and some of the rest of us in
they cannot put the Socialist movement in jail. Those pr
separate their bodies from ours, but their souls are here t
noon. They are simply paying the penalty that all men h
in all of the ages of history for standing erect and seekin
the way for better conditions for mankind.

"If it had not been for the men and women who, in
have had the moral courage to go to jail, we would still
jungles.

"This assembly is exceedingly good to look upon. I wis
possible to give you what you are giving me this afternoon
I say here amounts to but little. What I see here is exceedi
portant. You workers here in Ohio, enlisted in the great
ever organized in the interests of your class, are making hist
in the face of threatening trouble of all kinds, history that
to be read with profound interest by the coming generation
is but one thing that you have to be concerned about and tha
you keep four-square with the principles of the internationa
istic movement. It is only when you begin to compron
trouble begins. So far as I am concerned, it does not mat
others may say or think or do, as long as I am sure that I
with myself and the cause.

"There are so many who seek refuge in the popular side o
question. I am not of that number. As a Socialist I have le
learned how to stand alone.

"For the last month I have been traveling over the Hoos
and let me say that in all my connections with the Socialis
ment, I have never seen such enthusiasm, such unity of mo
such a promising outlook as there is today. Notwithstand
statement published by the capitalist press that our leaders
serted, I wish to say for myself I never had very much
leaders anyway. I am willing to be charged with almost a
rather than be charged with being a leader. I am suspi
leaders, especially all the intellectual file. Give me the rank
every day in the week. Go to the City of Washington and
the files there and you will find that the corporation lawyer
bers of congress and misrepresentatives of the masses—all
claim that they have risen from the ranks. I am glad
cannot make that claim for myself. When I rise, it
129 with the ranks and not from the ranks.

"When I came away from Indiana, the comrad
'When you cross the line, tell those comrades that we are
and doing duty and are going to make a record this fall t
be heard around the world.'

"The Socialists of Ohio are very much alive this year. The part
has been 'killed' this year, which accounts for its extraordinary activ
ity. This naturally helps a party. The oftener it is killed, the mor
energetic and more powerful they become. We have been readin
capitalist newspapers lately, and what a capacity they have for lying
They know all about the Socialist party except what is true. Onl
the other day, they took an article that I had written and most o
you have read, and made it appear that I had undergone a marvel
ous transformation. I had suddenly come to my senses, had ceased
to be a wicked Socialist and had become a respectable Socialist,
patriotic Socialist—as if I had ever been anything else. What wa
the purpose of this deliberate misrepresentation? It is so self-evi
dent that it was against itself. It was to sow dissatisfaction among
our ranks, so that we would pit ourselves against each other to ou
mutual undoing. But Socialists were not born yesterday. They
know how to read capitalists' newspapers, and to believe exactly th
opposite of what they read.

"Why should a Socialist be discouraged on the eve of the greates
triumph of all the history of the Socialist movement? It is true tha
these are anxious, trying days for us all, testing those who are up
holding the banner of the working class in the greatest struggle the
world has ever known against the exploiters of the world; a time in
which the weak, the cowardly, will falter and fail and desert. They
lack the fibre to endure the revolutionary test. They fall away
They disappear as if they had never been.

"On the other hand, they who are animated with the unconquer
able spirit of the Social revolution, they who have the moral courage
to stand erect, to assert their convictions, to stand by them, to go to
jail or to hell for them—they are writing their names in this crucial
hour, they are writing their names in fadeless letters in the history
of mankind. Those boys over yonder, those comrades of ours—and
how I love them—aye, they are our younger brothers, their names
are seared in our souls.

"I am proud of them. They are there for us and we are for
them. Their lips, though temporarily mute, are more eloquent than
ever before, and their voices, though silent, are heard around the
world.

"Are we opposed to Prussian militarism? Why, we have been
fighting it since the day the Socialist movement was born and we
are going to continue to fight it today and until it is wiped from
the face of the earth. Between us there is no truce, no compromise,
but before I proceed along this line, let me recall a little history in
which we are all interested.

"In 1869, that grand old warrior of the Socialist revolution, the
elder Liebknecht, was arrested and sent to prison for three months
because of his war as a Socialist on the Kaiser and the Junkers that
ruled Germany. In the meantime, the Franco-Prussian war broke
out. Liebknecht and Badel were the Socialist members of the
Reichstag. They were the only two to protest against the taking of
Alsace-Lorraine from France and giving it to Germany. They were
taken from the Reichstag and sent to prison for two years. For four

years previous to this, they had been fighting the Kais
Junkers of Germany. They have fought them
130 day to this. Thousands of them have languis
prisons for war on the ruling classes of that cou

"Let us come down the line. At the close of Roosev
term as President, he went over to Africa to make war on
ancestors. You remember at the close of his expedition
all of the capitals of Europe and he was wined, dined, di
glorified by the Kaiser, kings and czars of the old world.
Potsdam while the Kaiser was there and, according to t
published in the American newspapers, he and the Kaise
on the most intimate terms. They were hilariously int
each other. They slapped each other on the back. Afte
had effused over the German troops, he remarked to the
I had that kind of an army, I would conquer the world.'
the Kaiser as well as he knows him now and yet he perm
self to be entertained by the Beast of Berlin. He was che
with the Beast of Berlin. And while he was being ente
the Beast of Berlin, that same Kaiser was putting Socia
in jail for fighting Kaiserism. Roosevelt was a guest o
the Kaiser while the Socialists were in the jail for figiting
Who was fighting against the Kaiser? Roosevelt? No.
Socialists.

"When the newspapers reported that Kaiser Wilhelm
President Theodore Roosevelt recognized each other at si
first touch, they made admission that they are fatal to the
of democracy. They admitted that their ideas and ideals
the same. While Theodore Roosevelt, who is now the g
pion of democracy, the arch foe of autocracy, what busin
as the guest of honor of the Kaiser and was it not pretty st
that he was a Kaiser at heart? After being the guest of
he wants us to send 10,000,000 men to murder the Kaiser,
his former friend and pal. And yet he is the patriot and
traitors. I challenge you to find any Socialist who was eve
of the Kaiser, except as one of his prison wards.

"In 1902, Prince Henry paid a visit to this country.
member him? I do. Exceedingly well. Prince Hen
brother of King Wilhelm. He is an autocrat; an aristocrat
of Junkers. He came over in 1902 as the representative
Wilhelm. He was received by Congress, by several State l
among others the State legislature of Massachusetts, then
He was invited there by the members of the legislature.
Prince Henry came there, there was one member who ke
respect, put on his hat, and as Prince Henry walked in,
out, and that man was James F. Carey, and all the rest of
sentatives joined in doing honor in the most servile spirit t
representative of autocracy, and Carey was the only one wh
meeting.

"You will remember history along the same line. I h
tinct recollection. It occurred just 15 years ago. Wh
Henry came here, all of our plutocracy, living along Fift

threw their palace doors wide open and received him with open
They got down on their stomachs and vied with each other to
the boots of Prince Henry, the representative of the Beast of B

"Do not imagine for one moment that all the plutocrats
Junkers are all in Germany; we have them here in our own cou
and these want to keep our eyes focused upon the Junkers in
many so we won't see those within our own border. I hav
earthly use for the Junkers of Germany and not one particle
use for the Junkers in the United States.

131 "They tell us that we live in a great republic. Ou
stitutions are democratic. We are a free people. This
much, even as a joke. It is not a subject for levity; it is an ex
ingly serious matter.

"To whom do the Wall Street Junkers in our country, to w
do they marry their daughters? After they have wrung the
dreds of millions from your sweat and from your life blood, in
of war as well as peace, they invest these millions in the titl
broken-down aristocrats, and to buy counts of no-account. Are
satisfied to wed their daughters to honest workmen? To real d
crats? They scour the markets of Europe for those who have
and nothing else, and they swap their titles for money. And
swap their matrimony for more money, while the plutocrats in
country scan the country with their magnifying glasses for evi
of disloyalty. Patriotism is the last refuge of scoundrels. It
been the tyrant who wrapped himself in a cloak of religion or
otism, or both. They would have you believe that the Socialist
consists in the main of disloyalists and traitors. It is true, in a
tain sense. We are disloyalists and traitors to the real traito
this nation. And the gang on the Pacific coast are trying to
Tom Mooney in spite of the protests of the civilized world.

"I know Tom Mooney. He is an absolutely honest, innocent
He had no more to do with the crime with which he was cha
than I have and if he ought to go to the gallows, so ought I.
is he guilty of? I will tell you. For years he has been fightin
battles of the working class out on the Pacific coast. He conti
loyally in the service of the working class. They said, 'He ca
be bought; he refuses to be bribed. Therefore, he must be
dered.'

"Let us review another bit of history. Do you remember
Francis J. Heney was shot down in the court-rooms of San
cisco? A committee of high-binders, composed largely of men
of the Chamber of Commerce, absolutely controlled the courts of
Francisco. They did not hesitate to commit murder to further
murderous regime. Tom Mooney was the only representative o
working class that they could not control. They owned the railw
they controlled the industries; they were the rulers and from
there was no appeal. And they were as infamous as any rulers
ruled in Germany or any other country. At last a grand jury
found that would indict them, and Francis J. Heney, who had
selected by the National Administration to assist in the prosecu
this same gang controlled by the Chamber of Commerce, this

hired a murderer to shoot Francis J. Heney down in the court-room and he did. Francis J. Heney happened to live, but that was no fault of theirs. The same gang are also for the execution of Tom Mooney. Every solitary one of them claims to be an arch-patriot. Everyone of them claims he is trying to make democracy safe in this world. What humbug! What rot! What false pretence! The patriots are the men who have the courage to stand face to face and fight them, and they call them disloyalists and traitors, and if this be true, I want to take my place side by side with the traitors in this country.

"Why, the other day they sent a woman to Wichita penitentiary for ten years. Just think of sentencing a woman to the penitentiary for talking. The United States under the rule of the plutocrats is the only country which would send a woman to the penitentiary for ten years for exercising the right to free speech. If this be treason, let them make the most of it. Let me review another bit of history. I have known this woman for ten years. Personally I know her as if she were my own younger sister. She is a woman of absolute integrity. She is a woman of courage. She is a woman of unimpeachable loyalty to the Socialist movement. She went out
132 into Dakota and made her speech, followed by plain-clothes men in the service of the government, intent upon encompassing her arrest, prosecuted and convicted. She made a certain speech and that speech was deliberately misrepresented for the purpose of securing her conviction. The only testimony was that of a hired witness. And thirty farmers who went to Bismarck to testify in her favor, the judge refused to allow to testify. This would seem incredible to me if I had not some experience of my own with a Federal court. Who appoints the Federal courts? The people? Every solitary one of them holds his position through influence and power of corporation capital. And when they go to the bench, they go there not to serve the people, but to serve the interests who sent them. The other day, by a vote of five to four, they declared the Child Labor Law unconstitutional; a law secured after twenty years of education and agitation by all kinds of people, and yet by a majority of one, the Supreme Court, a body of corporation lawyers, with just one solitary exception, wiped it from the Statute books, so that we may still continue to grind the blood of little children into profit from the Junkers of Wall Street, and this in a country that is now fighting to make democracy safe for the world. These are not palatable truths to them. And they do not want you to hear them and that is why they brand us as traitors and disloyalists. If we were not traitors to the people, we would be eminently respectable citizens and ride in limousines. It is precisely because we are disloyal to the traitors that we are not disloyal to the people of this country.

"You have heard of Scott Nearing. He is the greatest teacher in the United States. He was in the University of Pennsylvania until the Board of Trustees, composed of great capitalists, found he was teaching true economics to the students of that university, as the same forces said of a Judean carpenter nineteen centuries ago. They said of Jesus Christ, who was a workman and teacher, they said,

'He is preaching a false religion,' and his lineal descendants said, 'He is preaching economics.' 'We cannot crucify him so we will starve him to death. We will make it impossible for him to get a job. He is a dangerous man. He is teaching the truth.' The truth is always unpalatable to these plutocrats, who make their living by the sweat of the working class.

"They are afraid that we might contaminate you. You are their wards. They are their own guardians. They must see that our vicious doctrines do not reach your ears. What a mistake they make. We ought to pass a resolution of thanks and send it to them. Those are the people who want to seize our paper. And woe to the man who reads Socialist literature. He is a goner. I have known of a thousand experiments but I have never known of a single experiment to escape it. Let me tell you about John Werk, of Milwaukee. The capitalists of Milwaukee said to John, 'We have got to find out about Socialism. John, you are a bright, young lawyer; we want you to find out all about Socialist literature.' After reading the Socialist volume, John was a full-fledged Socialist and has been fighting for us ever since.

"How short-sighted the ruling class is. The exploiter cannot see beyond the end of his nose. He has just cunning enough to know what graft is and where it is but he has no vision. You know this is a great throbbing world that spreads out in all directions. Look at Rockefeller. Every move he makes hastens the coming of his doom. Every time the capitalist class tries to hinder the cause of Socialism they hurt themselves. Every time they strangle a Socialist newspaper they add a thousand voices to those which are aiding Socialism. The Socialist has a great idea. An expanding philosophy. It is spreading over the face of the earth. It is useless
133 to resist it as it is to resist the rising sunrise. Can you see it?

If you cannot you are lacking in vision, in understanding. What a privilege it is to serve it. I have regretted a thousand times I can do so little for the movement that has done so much for me. The little that I am, the little that I am hoping to be, is due wholly to the Socialist movement. It gave me my ideas and my ideals, and I would not exchange one of them for all the Rockefeller blood-stained dollars. It taught me how to serve; a lesson to me of priceless value. It taught the ecstasy of the hand-clasp of the comrade. It made it possible for me to get in touch with you, to multiply myself over and over again; to open the avenue to spread out the glorious vistas; to know that I am kin with all that throbs, that becomes class conscious. Every man who toils, everyone of them, is my comrade. To serve them is the highest duty of my life. And in their service I can feel myself expanding. I rise to the stature of a man. Yes, my heart is attuned to yours. All of our hearts are melted into one great heart which throbs to the response of the people.

"Here I hear your heart beats responsive to the Bolsheviki of Russia. (Applause.) Yes, those heroic men and women, those unconquerable comrades, who have by their sacrifice added fresh lustre to the international movement. Those Russian comrades who

have made greater sacrifices, who have suffered more, who have shed more heroic blood than any like number of men and women anywhere else on earth. They have led the first real convention of any democracy that ever drew breath. The first act of that memorable revolution was to proclaim a state of peace with an appeal not to the kings, not to the rulers, but an appeal to the people of all nations. They are the very breath of democracy: the quintessence of freedom. They made their appeal to the people of all nations, the Allies as well as the Central Powers, to send representatives to lay down terms of a peace that should be lasting. Here was a fine opportunity to strike a blow to make democracy safe to the world. Was there any response to that noble appeal? And here let me say that appeal will be written in letters of gold in the history of the world. While it has been charged that the leader made a traitorous peace with Germany, let us consider this proposition briefly. At the time of the revolution, Russia had lost 4,000,000 of her soldiers. She was absolutely bankrupt. Her soldiers were without arms. This was what was bequeathed to the revolution by the Czar. For this condition, Leon Trotski was not responsible nor was the Bolshevik movement, but the czar was.

"When Leon Trotski came into power, he found the secret treaties made between the French government and the British government and the Italian government which was to divide the territory of the Central Powers if the Allies were victorious, and these secret treaties have not been repudiated up to this time. Very little has been said about them in the American newspapers. This shows that the purpose of the Allies is exactly the purpose of the Central Powers.

"Wars have been waged for conquests, for plunder, and since the feudal ages along the Rhine, the feudal lords made war upon each other. They wanted to enlarge their domains, to increase their power and their wealth and so they declared war upon each other. But they did not go to war any more than the Wall Street Junkers go to war. Their predecessors declared the wars, but their miserable serfs fought the wars. The serfs believed that it was their patriotic duty to fall upon one another, to wage war upon one another. And that is war in a nutshell. The master class has always brought a war and the subject class has fought the battle. The master class has had all to gain and nothing to lose, and the subject class
134 has all to lose and nothing to gain. They have always taught you that it is your patriotic duty to go to war and slaughter yourselves at their command. You have never had a voice in the war. The working class, who make the sacrifices, who shed the blood, have never yet had a voice in declaring war. The ruling class has always made the war and made the peace.

"Yours not to question why,
Yours but to do and die.

"Another bit of history I want to review is that of Rose Pastor Stokes, another inspiring comrade. She had her millions of dollars. Her devotion to the cause is without all consideration of a financial or economic view. She went out to render service to the cause

and they sent her to the penitentiary for ten years. What has she said? Nothing more than I have said here this afternoon. I want to say that if Rose Pastor Stokes is guilty, so am I. If she should be sent to the penitentiary for ten years, so ought I. What did she say? She said that a government could not serve both the profiteers and the employees of the profiteers. Roosevelt has said a thousand times more in his paper, the Kansas City Star. He would do everything possible to discredit Wilson's administration in order to give his party credit. The Republican and Democratic parties are all patriots this fall and they are going to combine to prevent the election of any disloyal Socialists. Do you know of any difference between them? One is in, the other is out. That is all the difference.

"Rose Pastor Stokes never said a word she did not have a right to utter, but her message opened the eyes of the people. That must be suppressed. That voice must be silenced. Her trial in a capitalist court was very farci-al. What chance had she in a corporation court with a put-up jury and a corporation tool on the bench?

"If the war was over tomorrow, all the prison doors would open. They were just to silence these voices during the war, and the cases will be pending in court for months, perhaps years. The truth will make the people free and the truth must not be permitted to reach the people. The truth has always been dangerous to the rule of the rogue, to the exploiters. And every time they make an attempt (to attack Socialism) they have ten thousand voices proclaiming that Socialism must live.

(Gets a glass of water from one on the platform.)

"Thank you, comrade. How good the touch of the hand of a comrade is and a sip of water furnished by a comrade! And how good it is to look into your faces this afternoon! You are really good looking to me this afternoon, I assure you. Your tribe has increased wonderfully since I came here. You used to be so few and so far between. When you struck a place the first thing to do was to try to find a Socialist. If he happened to be the only one in town, he now holds a place of honor in the hearts of all now living. Now you can't throw a stone in the dark without hitting a Socialist.

"I went to Warren some years ago. It happened the year President McKinley was assassinated. In common with all others, I deplored that tragic event. There is not a Socialist who would have been guilty of that crime. We do not attack individuals. We have no fight with individuals. We are capable of pitying those who hate us. We do not hate them. We know better. We would hand them a cup of water if they needed it. There is not any room in our hearts for hate, except for a system, a system in which it is impossible for one man to achieve a tremendous fortune while millions and millions struggle for the bare necessities of life. When McKinley was assassinated the ministers met at Portsmouth and passed a resolution that Debs was responsible for the death of Mc-
135 Kinley. So all those ministers met and said I was not permitted to come into the city. I went there soon after, however.

"At Warren I was prepared to speak at the hall. I arrived in evening and was no more than registered when I was ordered leave the town, as I was not to be permitted to speak there. I s word to the mayor that I would speak at Warren or I would le Warren in a box. I went to the hall and the G. A. R. had a spe meeting. In the full uniform they sat in the front seats. I wen the hall and made my speech. I told them who was responsible the assassination. As long as there is misery, caused by robbery the bottom, there will be assassination at the top. Well, I made speech that night. I was back there the other day and the wh population of Warren was there to meet me.

"They who have had the courage to take their places at the fr they who have been true enough to speak the truth that is in th who have espoused the cause of the suffering, struggling poor, w have upheld the cause of righteousness—they have made the hist They have paved the way to civilization. There are so many w remain on the popular side. They lack the fibre that endures. T are to be pitied and not treated with contempt. Those who h lived and endured that we should live on the earth today, had th bones broken on the wheel and were burned at the stake. We under obligation to them because of what they suffered for us, the only way we can cancel that obligation is by doing and seek today for the interest of everyone who needs us.

"Every Socialist on the face of the earth is animated by the s principles. Everywhere they have the same noble idea, everywh they are calling one another 'comrade', the noblest word that spri from the heart and soul of unity. The word 'comrade' is getting into closer touch all along the battle line. They are waging the on the working class against the ruling class of the world. T conquer difficulties; they grow stronger through them all.

"The heart of the international Socialist never beats a retr They are pressing forward here, there, everywhere, in all the zo that girdle this globe. These workers, these class-conscious work these children of honest toil are wiping out the boundary lines ev where. They are proclaiming the glad tidings of the coming ema pation. Everywhere they are having their hearts attuned to sacred cause; everywhere they are moving toward democracy, n ing toward the sunrise, their faces aglow with the light of com day. These are the men who must guide us in the greatest crisis world has ever known. They are making history. They are bo upon the emancipating of the human race.

"They have been sufficient to themselves, pressing forward tow the heights. Do you wish to hasten the coming day? Join the cialist party. Do not wait for the morrow. Come now. En your name. Take your place where you belong. You cannot your duty by proxy. You have got to do it yourself. You have no occasion to blush. You will know what it is to be a ma a woman. You will lose nothing. You will gain everything. are very apt to find something. You need to know that you ar for something better than slavery and cannon fodder. You nee know that you are not created to work and to produce and to

poverish yourself. You need to know that you have a soul to develop. You need to know that it is for you to know something about literature and about science and about art. You need to get in touch with your comrades. You need to become conscious of your own interests. You need to know that as long as you are unorganized industrially and content you will remain exactly where you are.

You will be exploited. You will have to beg for a job and
135 you will get just enough to keep you in working order. And you will be looked down upon in contempt. If you would be respected you will have to begin by respecting yourself. I would not want to be in the predicament that poor fellow was in who heard a Socialist speech the other day and thought he ought to be a Socialist. The argument was invincible.

"'Well, all he said was true.'

"But he finally concluded he might lose his job.

"'I guess I can't afford to take the chance.'

"That night he slept alone. He was in trouble with his conscience. Such men always are. A Socialist always goes to bed with his self-respect and he can look the whole face in the world (the crowd laughs at the unconscious inversion of words) without a tremor.

"This poor fellow had a terrible dream and bounded from his bed and said: 'My God, there is nobody in this room!' And he was absolutely right. No wonder he was terror-stricken. How would you like to sleep in a room with nobody in it?

"There is a great deal of hope for our comrades, Wagenknecht, Ruthenberg and Baker. Anybody can be nobody, but it takes a man to be somebody. Turn your back upon that corrupt Republican party and that still more corrupt Democratic party, the gold-dust twins of the ruling class. Get into a minority party that fights for a cause. Make that change. It will be the most important change you ever made in your life. You will thank me for having made the suggestion. It was a day of days for me. I passed from darkness to light.

"Great, seething, throbbing Russia was transferred from a land of seething darkness to a land of living light. There is something splendid in the prompting of the heart to be true to yourself.

"You are in the crucible today, Mr. Socialist. You are going to be tried, to what extent, no one knows. If you are of weak fibre, that weakness will be found out. We will have to bid good-bye to you. You are not of the stuff of which revolutionists are made. The intellectuals, a good many of them, are all gone. That is no loss to ourselves and no gain to others. In discussing intellectuals let us answer this question: They have been with us for a long while. What will become of the rank and file as soon as the shepherds cease to guide us? 'You are my sheep.' In other words, you are my mutton. They are ruled through the intellectuals in the capitalist parties. If you are in the Republican or Democratic party, you will not be called upon to think. They ride in the carriages; you tramp in the mud. The capitalist system affects to have great regard for intellect. We used to tell the capitalists sometime ago, 'The working class will rule'. We used to say, 'The people ought to own

the railroads'. We advocated that twenty years ago. You ha
to have brains to operate railroads—and the other day McAdo
all the brains. Have you noticed any change since the brain
gone? The railroads are now operated by hand.

"This determines how invaluable is the quality of capitalist
They have always given themselves credit for having superior
They have had all the brains and all the wealth. As to bra
pacity, they are the most woeful people on the face of the earth
they know how to gouge. And they do it legally, for the
that the class which can rob on a large scale has the power t
trol courts.

"Among other things they tell you to cultivate war gardens.
ernment reports now show that 52% of the arable, tillable
held out of use by the profiteers. They do not allow others t
tivate it. They keep it idle, to enrich themselves. Th
137 makes their land valuable. It is not the fault of the p
it is the fault of the landlords. And while we are upo
subject, think about the landlord. The landlord is the gre
triot. He is fighting to make the world safe for democracy
it is who profits at the expense of the people under the prete
being a great patriot. It is he whom you need to wipe from
It is he who diminishes your health and your liberty far mor
the Prussian junker on the other side of the ocean. Accordi
their own figures, they will tell you that we will have to export
wheat for the soldiers on the other side.

"They tell you there is a coal famine. The State of In
where I live, is underlaid with coal. The coal is under our feet
that we can possibly use. The miners are ready to enter the
Here is the machinery ready to increase the output to any d
capacity. Aye, only three weeks ago, the officers of the United
Workers issued a bulletin to the Labor Department of the U
States that the 600,000 coal miners of the United States at this
when they tell us of a coal famine, are not permitted to work
than one-half time. I have seen the miners idle. In the
time there is a scarcity of coal. They tell you to buy your coa
and they charge you three prices for it. Now, we have private
ership of the coal mines, and you ought to have if you vote fo
Democratic or Republican ticket. The profiteers want a scarc
coal. They make money out of a scarcity of coal. The ope
say there are no cars and the railroads say there is no coal.
between them they defraud the people. Here is the difficulty.
are the cars. The Socialist says, 'Take possession of the mines
the miners at work. Give the miner all he produces.' The
works three hundred feet in the earth. The owner of the mine
in New York or Vienna or Paris. He does not have to do a
work. He owns the tools, the machinery and the miner. An
is what you do every time you vote the Democratic or Repub
ticket. Let the miner mine the coal and then he gets the full
of his toil. He can then provide himself and his wife and his
dren with a good home (and plenty to eat). So they contin

charge three prices for coal. If that is the thing you want, you will get it to your heart's content.

"A change is needed, a change of system from despotism to democracy, a change from slavery to freedom; a change from brutehood to brotherhood. To accomplish this you have got to organize, and to organize not along the zig-zag lines laid down by Sam Gompers who, through all of his career, has been on the side of the capitalist class. You never hear the capitalist papers speak of him except in praise. Gompers was always conservative, * * * by solving the labor situation by the aid of Elihu Root and Andy Carnegie with whom he drank wine and smoked scab cigars.

"Few men have the courage to say a decent word in favor of the I. W. W. I have. (Here several in the crowd yelled, 'So have I.')

"I have a great respect for the I. W. W. There has been a pamphlet issued called, 'The Truth about the I. W. W.' After long investigation by five men who are not Socialists: John Graham Brooks, Harvard University, Mr. Bruers, government investigator; (other names not noted).

"These men investigated the I. W. W. They have examined its doings, beginning at Bisbee, Arizona, where the officers deported five hundred. It is only necessary to label a man 'I. W. W.' to lynch him. Just think of the state of mind for which the capitalist press is responsible.

"When Wall Street yells war, you may rest assured every
138 pulpit in the land will yell war. The press and the pulpit have in every age and every nation been on the side of the exploiting class and the ruling class. That's why the I. W. W. is infamous.

"The I. W. W. in its career has never committed as much violence against the ruling class as the ruling class has committed against the people. The trial at Chicago is now on and they have not proven violence in a single solitary case. And yet, one hundred and twelve have been on trial for months and months without a shade of evidence. And this is all in its favor. And for this and many other reasons, the I. W. W. is fighting the fight of the bottom dog. For the very reason that Gompers is glorified by Wall Street, Bill Haywood is despised by Wall Street. What you need is greater organization.

"In the shop is where the industrial union has its beginning. Organize. Define your capacity. Act together. And when you organize industrially you will soon learn that you can manage industry as well as operate industry. You will find that you do not have to take work from them: you give them work to do. You can dispense with them. You ought to own your own tools. Organize industrially. Make the organization complete. Unite in the Socialist party. Vote as you organize. Stand with your party. See that that party improves the working class, especially this year when the forces will clash as they have never clashed before. Take your place in the ranks. Help to inspire the weak and strengthen the faltering. Then, when we vote together we will develop the supreme power of the one class that can bring peace to the world. We will

transfer the title deeds of the railroads, of the telegraphs, the
and the mills. We will transfer them to the people. We wil
possession in the name of the people. We will have industrial,
and political democracy. This change will be universal.

"And now for all of us to do our duty. The call is ringi
your ears. Do not worry over the charge of treason to your
ters, but be concerned about the treason that involves yourself.
year we are going to sweep into power and in this nation and
going to destroy capitalistic institutions and re-create them. *
The world of capital is collapsing. We need industrial bui
We Socialists are the builders of the world that is to be. We a
viting you this afternoon. Join and it will help you.

"In due course of time we will proclaim the emancipation
brotherhood of all mankind."

139 And the Grand Jurors aforesaid, further present and
that at the time and place aforesaid, and in the manne
under the circumstances aforesaid, and before the assembly
persons aforesaid, the said defendant did wilfully, by words and
guage spoken, oppose the cause of the United States so at w
aforesaid, with the Imperial German Government; contrary t
form of the statute of the United States in such case made and
vided, and against the peace and dignity of the United States.

E. S. WERTZ.
United States Attorn

(Endorsement on Indictment:) No. 4057, District Court o
United States for the Eastern Division of the Northern Distri
Ohio. The United States vs. Eugene V. Debs. Indictment, For
lation of Sec. 3, Title 1, Act of June 15, 1917, as amended by
of May 16, 1918. (Espionage.) A True Bill. W. H. Worst,
man of Grand Jury. E. S. Wertz, U. S. District Attorney.
June 29th, 1918, by B. C. Miller, Clerk, U. S. District Court, N.

140 (Defendant arraigned, plea not guilty entered—
granted to withdraw plea—recognizance fixed in $10,0
ent. July 1, 1918 by Judge Westenhaver.)

No. 4057. Criminal.

THE UNITED STATES OF AMERICA

vs.

EUGENE V. DEBS.

This day came the United States Attorney on behalf of the U
States and also came the defendant accompanied by counsel a
bar of court, and being arraigned and waiving the reading of
Indictment he for plea thereto says that he is not guilty in ma
and form as he is by the Indictment therein and thereby char

and leave is granted said defendant to withdraw his plea and file demurrer or other pleading to the Indictment herein. It is thereupon ordered that said defendant enter into a recognizance in the sum of Ten Thousand ($10,000.00) Dollars for his appearance here in this Court from day to day during the present term and from term to term thereafter then and there to answer unto the Indictment pending against him and in default he stand committed to the Jail of Cuyahoga County. And thereupon came the said defendant as principal and A. A. Moskovitz and Marguerite Prevey as surety and entered into the required recognizance.

141 (Motion to Quash Filed Aug. 6, 1918.)

The United States District Court, Northern District of Ohio, Eastern Division.

No. 4057.

Motion to Quash.

THE UNITED STATES OF AMERICA

vs.

EUGENE V. DEBS.

The defendant, having heard the Indictment read, and now withdrawing by leave of Court his plea of Not Guilty heretofore entered, moves to quash the said Indictment, and each Count thereof, for the reasons following, towit:

1. The grand jury which found said indictment was not drawn and impanelled as required by law.

2. Said grand jury was not legally constituted and not a lawful grand jury.

3. The application for a venire, the order allowing same, the drawing of said venire, and the issuing of summons for said grand jurors were all done on the same day, within a few hours of each other at most, without any public notice or opportunity afforded defendant or the public to be present at said drawing.

4. All the names selected and placed in the jury-box were selected from only the Eastern Division and not from the entire District. Said Eastern Division is comprised of 19 Counties, with populations as follows, to-wit: Ashland, 22,975 persons; Ashtabula, 59,547; Carroll, 15,761; Columbiana, 76,619; Crawford, 34,036; Cuyahoga, 637,425; Geauga, 14,670; Holmes, 17,999; Lake, 22,927; Lorain, 76,037; Mahoning, 116,151; Medina, 23,598; Portage, 30,307; Richland, 47,667; Stark, 122,987; Summit, 103,253; Trumbull, 52,763; Tuscarawas, 57,035; and Wayne, 38,058. And said grand jurors were not selected and placed in said jury-box from said several counties in proportion to population, but on the contrary with entire disregard of said proportions.

142 5. The names drawn for said grand jury were no
according to the proportionate populations of said
counties, as in the fourth ground above set forth; but on
trary were drawn with entire disregard of said proportions.

6. The names selected and put in, and those drawn fro
jury-box did not include names of the wage-earning, laborin
which is dependent mainly or entirely upon the sale of it
power for maintenance, to which class defendant belongs, and
is a very large class within said division and district, num
more than one-half the population of said district and
Members of said class have been purposely excluded from sa
service, and this defendant thereby deprived of his right of
due process of law as provided by Article Five of the Amen
to the Constitution of the United States.

7. The names selected and put in, and those drawn fro
jury-box were the names exclusively of adherents of the Rep
and Democratic Parties. Members of the Socialist Party
more than 40,000 electors within said Division and District,
at the time said jury-box was filled as aforesaid; and said m
of the Socialist Party are in every way eligible to serve as jur
were at said time, but have been by reason of their adherence
Party excluded from said Jury service. The defendant is an a
of the said Socialist Party; the offense with which he is cha
that of uttering Socialist propaganda and attacking the pri
and the leaders of the said Republican and Democratic Part
necessarily evoking the political prejudices and passions of
bers and adherents of said parties; and to cause defendant
indicted by a jury composed exclusively of his politi
143 versaries, while members of his own political party
cluded therefrom, deprives the defendant of the equal
tion of the law and his constitutional rights.

8. Said grand jury was impanelled and sworn for the April
1918, which began April 1st, 1918. The law, in its present
under which this indictment has been found, was not enacte
May 16, 1918. Thus at the time said grand jurors were swo
charged, there was no such crime, in the then existing laws
which this defendant is now charged; and said grand juror
not sworn or charged to inquire into the future offenses which
be created by future statutes and thereafter committed, bu
sworn and charged solely as to the then existing laws.

The defendant says further that all of these facts are prej
to his defense; and all of them he is ready to verify.

Wherefore he prays judgment of the indictment and th
same, and each count thereof, may be quashed.

SEYMOUR STEDMAN,
MORRIS H. WOLF,
JOSEPH W. SHARTS,
Attorneys for the Defend

STATE OF OHIO,
County of Montgomery, ss:

Joseph W. Sharts, being first duly sworn, says that he is one of the attorneys for defendant named in the foregoing Motion to Quash, and that the allegations therein contained are true as he verily believes.

JOSEPH W. SHARTS.

Sworn to before me and subscribed in my presence by the said Joseph W. Sharts this 1st day of August, A. D. 1918.

STANLEY R. SHARTS,
[SEAL.] *Notary Public in and for Said County.*

114 (Demurrer Filed Aug. 15, 1918.)

In the District Court of the United States for the Northern District of Ohio, Eastern Division.

No. 4057. Criminal.

Demurrer.

THE UNITED STATES OF AMERICA

vs.

EUGENE V. DEBS.

Now comes the defendant, Eugene V. Debs, in his own proper person and by Morris Wolf, Joseph W. Sharts, Seymour Stedman, and Morris Hillquit, his attorneys, and demurs to the indictment and each and every count thereof in the above entitled cause, and for the reason thereof says:

(1.) That said indictment and each and every count thereof is insufficient in that it fails to state and charge an offense under the laws of the United States;

(2.) That each and every count of Section 3, Title 1, of an Act of June 15, 1917, as amended by Act of May 16, 1918, entitled: "An Act to punish acts of interference with the foreign relations, the neutrality, and the foreign commerce of the United States; to punish espionage, and better to enforce the criminal laws of the United States, and for the other purposes", is unconstitutional in that it is in violation of an amendment to the Constitution of the United States, entitled, "Article 1, Amendments to the Constitution", as follows: "Congress shall make no law respecting an establishment of religion, or prohibit the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of people peaceably to assemble and to petition the government for a redress of
145 grievances";

(3.) That said indictment is bad in that it charges several distinct and separate offenses.

First Count.

The first count is insufficient

(4.) in that it fails to properly charge an offense in tha
not descend to particulars and omits a statement of facts o
stances constituting an offense;

(5.) in that the statement in words and figures therein
have been made and uttered by the defendant do not app
a statement of facts or circumstances, but the expression of
ion upon the political and industrial policies and attitud
Administration and Governments of various countries;

(6.) in that it fails to allege with sufficient particularity
in what manner the defendant wilfully did make and con
reports or false statements with intent to promote the suc-
enemies of the United States;

(7.) in that if fails to show wherein the said alleged re
statements charged against the defendant were false;

(8.) in that it fails to allege that Clyde R. Miller, D
Smith, A. P. Owen, and Virgil Steiner were within the d
subject to military duty, or in the military and naval forc
United States, or that they then and there heard of or bec
nizant of the false reports or false statements charged to h
uttered, made, or conveyed by the defendant;

146 (9.) in that it fails to allege that Clyde R. Mille
R. Smith, A. P. Owen, Virgil Steiner, and persons
to the Grand Jury were of draft age or subject to military
in the military and naval forces of the United States, or in
itary services of the United States, or heard any languag
uttering of any false reports or false statements by the d
as alleged, with intent to promote the success of the enemi
United States;

(10.) The said count is bad in that it appears that the
respectively, alleged to have been present and alleged to h
to the Grand Jury, are not by name or description set forth
sented or described in said count.

Second Count.

The second count is insufficient

(11.) in that it fails to properly charge an offense in tha
not descend to particulars and omits a statement of facts o
stances constituting an offense;

(12.) in that the statement in words and figures therei
to have been made and uttered by the defendant do not a
be a statement of facts or circumstances but the expressi
opinion upon the political and industrial policies and attitu
Administration and Governments of various countries;

(13.) in that it fails to allege with sufficient particularity
in what manner the defendant wilfully did make and con

reports or false statements with intent on his part to int
147 with the operation and success of the military and
forces of the United States;

(14.) in that it fails to show wherein the said alleged report
statements charged against the defendant were false;

(15.) in that it fails to charge that Clyde R. Miller and D
R. Smith were within the draft age, subject to military dut
within the military and naval forces of the United States, or
they then and there or became cognizant of the false reports or
statements charged to have been uttered, made, or conveyed b
defendant;

(16.) in that it fails to allege that Clyde R. Miller, Denn
Smith, and persons unknown to the Grand Jury were of the
age or subject to military duty, or within the military and
forces of the United States, or heard any language or the utt
of any false reports or false statements made by the defendar
alleged;

(17.) in that it appears that persons, respectively, alleged to
been present and alleged to be known to the Grand Jury, ar
by name or description set forth and presented or described in
count;

(18.) in that it fails to allege the nature or character of th
leged interference with the operation and success of the military
naval forces of the United States and fails to point out what o
tion was interfered with of the military and naval forces of
United States;

148 *Third Count.*

The third count is insufficient

(19.) in that it fails to properly charge an offense in that it
not descend to particulars and omits a statement of facts or cir
stances constituting an offense;

(20.) in that the statement in words and figures therein all
to have been made and uttered by the defendant do not appe
be a statement of facts or circumstances, but the expressio
an opinion upon the political and industrial policies and atti
of the Administration and Governments of various countries;

(21.) in that it wholly fails to point out specifically in what
and by what fact, circumstance or statement the defendant did
and incite, insubordination, disloyalty, mutiny and refusal of
in the military and naval forces of the United States;

(22.) in that it wholly fails to set forth particularly and by
allegation of fact or circumstance how or in what manner the
fendant did attempt to cause and attempt to incite, insubordina
disloyalty, mutiny and refusal of duty in military and naval fo
of the United States;

(23.) in that it fails to allege that Clyde R. Miller and De
R. Smith were within the draft age, subject to military duty
within the military and naval forces of the United States, or in
military and naval service of the United States, or that they

and there heard of or became cognizant of any statements, speech, address, charged to have been uttered, published, made or conveyed by the said defendant;

(24.) in that it appears that persons, respectively, alleged to have been present and alleged to be known to the Grand Jury, are
149 not by name or description set forth and presented or described in said count.

Fourth Count.

The fourth count is insufficient

(25.) in that it fails to properly charge an offense in that it does not descend to particulars and omits a statement of facts or circumstances constituting an offense;

(26.) in that the statement in words and figures therein alleged to have been made and uttered by the defendant do not appear to be a statement of facts or circumstances, but the expression of an opinion upon the political and industrial policies and attitude of the Administration and Governments of various countries;

(27.) in that it fails to allege that Clyde R. Miller, Dennis R. Smith and Virgil Steiner were within the draft age, subject to military duty, or within the military and naval services of the United States, or that they then and there heard of or became cognizant of any statements, speech, or address charged to have been uttered, published, made or conveyed by the said defendant;

(28.) in that it fails to allege that Clyde R. Miller, Dennis R. Smith and Virgil Steiner, and persons unknown to the Grand Jury were of draft age subject to military duty or within the military and naval forces of the United States, or in the military services of the United States, or heard any language or the uttering of any statements or public speech by the defendant;

(29.) in that it appears that persons, respectively, alleged to hav been present and alleged to be known to the Grand Jury, are
150 not by name or description set forth and presented or described in said count;

(30.) in that it fails to allege any statement of fact, any method, manner, condition, circumstance, or utterance by the defendant, or caused by the defendant, which constituted an obstruction to the recruiting and enlistment service of the United States; or any fact, condition, circumstance, or utterance resulting from any public speech or action on the part of the defendant, or statement made by him, wherein, as alleged, he attempted to obstruct the recruiting and enlistment service of the United States.

Fifth Count.

The fifth count is insufficient

(31.) in that it fails to properly charge an offense in that it does not descend to particulars and omits a statement of facts or circumstances constituting an offense;

(32.) in that the statement in words and figures therein alleged to have been made and uttered by the defendant do- not appear to be a statement of facts or circumstances, but the expression of an opinion upon the political and industrial policies and attitude of the Administration and Governments of various countries;

(33.) in that it fails to allege that Clyde R. Miller, Dennis R. Smith, A. P. Owen, and Virgil Steiner were within the draft age, subject to military duty, or within the military and naval forces of the United States, or in the military and naval service of the United States, or that they then and there heard of or became cognizant of any disloyal language or statements charged to have been
151 uttered, made or conveyed by the defendant;

(34.) in that it fails to allege that Clyde R. Miller, Dennis R. Smith, A. P. Owen, Virgil Steiner, and persons unknown to the Grand Jury were of draft age or subject to military duty, or in the military and naval forces of the United States, or heard any language or the uttering of any statements or public speech by the defendant;

(35.) in that it appears that persons, respectively, alleged to have been present and alleged to be known to the Grand Jury, are not by name or description set forth and presented or described in said count;

(36.) in that it fails to point out, designate, or charge any facts or disloyal language about the form of government of the United States;

(37.) in that it fails to point out, designate, or charge any facts or disloyal language about the Constitution of the United States;

(38.) in that it fails to point out, designate, or charge any fact or disloyal language about the military and naval forces of the United States.

Sixth Count.

The sixth count is insufficient

(39.) in that it fails to properly charge an offense in that it does not descend to particulars and omits a statement of facts or circumstances constituting an offense;

(40.) in that the statement in words and figures therein alleged to have been made and uttered by the defendant do- not appear to be a statement of facts or circumstances but the expression of
152 an opinion upon the political and industrial policies and attitude of the Administration and Governments of various countries;

(41.) in that it does not descend to particulars and state facts or circumstances or statements showing how or in what way or by what language the defendant intended to bring the form of government of the United States into contempt, scorn, contumely and disrepute;

(42.) in that it does not descend to particulars and state facts or circumstances or statements showing how or in what way or by what language the defendant intended to bring the Constitution of the United States into contempt, scorn, contumely and disrepute;

(43.) in that it does not descend to particulars and state facts or circumstances or statements showing how or in what way or by what language the defendant intended to bring the military and naval forces of the United States into contempt, scorn, contumely and disrepute;

(44.) in that it does not descend to particulars and state facts or circumstances or statements showing how or in what way or by what language the defendant intended to bring the flag of the United States into contempt, scorn, contumely and disrepute;

(45.) in that it does not descend to particulars and state facts or circumstances or statements showing how or in what way or by what language the defendant intended to bring the uniform of the army and navy of the United States into contempt, scorn, contumely and disrepute;

(46.) in that it fails to allege that Clyde R. Miller, Dennis R. Smith, A. P. Owen, Virgil Steiner, and persons unknown to the Grand Jury were of draft age or subject to military duty, or
153 in the military and naval forces of the United States or heard any language or the uttering of any statements or public speech by the defendant;

(47.) in that it appears that persons, respectively, alleged to have been present and alleged to be known to the Grand Jury, are not by name or description set forth and presented or described in said count.

Seventh Count.

The seventh count is insufficient

(48.) in that it fails to properly charge an offense in that it does not descend to particulars and omits a statement of facts or circumstances constituting an offense;

(49.) in that the statement in words and figures therein alleged to have been made and uttered by the defendant do- not appear to be a statement of facts or circumstances, but the expression of an opinion upon the political and industrial policies and attitude of the Administration and Governments of various countries;

(50.) in that it fails to allege that Clyde R. Miller, and Dennis R. Smith were a part of the military and naval forces of the United States, or in the military and naval service of the United States or that they then and there heard of or became cognizant of the false reports or false statements charged to have been uttered, made, or conveyed by the defendant;

(51.) in that it fails to point out, designate, or charge any language or action intended to

(*a*) incite

(*b*) provoke

(*c*) encourage

resistance to the United States and to promote the cause of
154 its enemy.

(52.) in that it appears that persons, respectively, alleged to have been present and alleged to be known to the Grand Jury, are not by name or description set forth and presented or described in said count.

Eighth Count.

(53.) in that it fails to properly charge an offense in that it does not descend to particulars and omits a statement of facts or circumstances constituting an offense;

(54.) in that the statement in words and figures therein alleged to have been made and uttered by the defendant do not appear to be a statement of facts or circumstances, but the expression of an opinion upon the political and industrial policies and attitude of the Administration and Governments of various countries;

(55.) in that it fails to allege that Clyde R. Miller, Dennis R. Smith, Virgil Steiner and A. P. Owen were a part of the military and naval forces of the United States, or in the military and naval service of the United States, or that they then and there heard of or became cognizant of the false reports or false statements charged to have been uttered, made or conveyed by the defendant;

(56.) in that it fails to point out, designate, or charge any language or action, how or in what manner, or by what statement, the defendant did

(*a*) urge

(*b*) incite

(*c*) advocate

the curtailment of the production in the United States of arms, armament, ammunition and munitions necessary and essential to the prosecution of the war in which the United States is engaged;

(57.) in that it fails to point out, designate, or charge any language or action of which he, the said defendant, was guilty and which did

(*a*) urge

(*b*) incite

(*c*) advocate

a curtailment of production in the United States of arms, armament, ammunition and munitions necessary and essential to the prosecution of the war in which the United States is engaged.

Ninth Count.

The ninth count is insufficient

(58.) in that it fails to properly charge an offense in that it does not descend to particulars and omits a statement of facts or circumstances constituting an offense;

(59.) in that the statement in words and figures therein alleged to have been made and uttered by the defendant do not appear to be a statement of facts or circumstances, but the expression of an opinion upon the political and industrial policies and attitude of the Administration and Governments of various countries;

(60.) in that it fails to allege that Clyde R. Miller, Dennis R. Smith were a part of the military and naval forces of the United

States, or in the military and naval service of the United States, o
that they then and there heard of or became cognizant of the fals
reports or false statements charged to have been uttered
156 made, or conveyed by the defendant;

(61.) in that it fails to point out, designate and descend to particulars in charging any language, facts or action by which th defendant did wilfully

(*a*) advocate
(*b*) teach
(*c*) suggest

the wilfull making and conveying of false reports and false state ments with intent to promote the success of the enemy of the Unite States;

(62.) in that it fails to point out, designate and descend to par ticulars in changing any language, facts or action by which th defendant did wilfully make and convey

(*a*) false reports
(*b*) false statements

with intent to interfere with the operation and success of the mil tary and naval forces of the United States;

(63.) in that it fails to point out, designate and descend to par ticulars in charging any language, facts or action by which the de fendant did wilfully

(*a*) cause
(*b*) attempt to cause
(*c*) incite
(*d*) attempt to incite

insubordiation, disloyalty, mutiny and refusal of duty in the mil tary and naval forces of the United States;

(64.) in that it fails to point out, designate and descend to par ticulars in charging any language, facts or action by which the de fendant did wilfully

(*a*) obstruct
(*b*) attempt to obstruct
157 the recruiting and enlistment service of the United States;

(65.) in that it fails to point out, designate and descend to particulars in charging any language, facts or action by which the defendant did wilfully utter and publish disloyal language about

(*a*) the form of government of the United States
(*b*) the Constitution of the United States
(*c*) the military and naval forces of the United States;

(66.) in that it fails to point out, designate and descend to par ticulars in charging any language, facts or action by which the de fendant did wilfully utter and publish language intended to bring

(*a*) the form of government of the United States
(*b*) the Constitution of the United States
(*c*) the military and naval forces of the United States
(*d*) the flag of the United States
(*e*) the uniform of the army and navay of the United States

into contempt, scorn, contumely and disrepute;

(67.) in that it fails to point out, designate and descend to particulars in charging any language, facts or action by which the defendant did wilfully utter and publish language intended to

(*a*) incite

(*b*) encourage

resistance to the United States and to promote the cause of its enemy.

158 (68.) in that it fails to point out, designate and descend to particulars in charging any language, facts or action by which the defendant did wilfully, by utterance and language spoken

(*a*) urge

(*b*) incite

(*c*) advocate

the curtailment of production in the United States of arms, armament, ammunition and munitions necessary and essential to the prosecution of the war in which the United States is engaged with intent by such curtailment to cripple and hinder the United States in the prosecution of the war;

(69.) in that it fails to point out, designate and descend to particulars in charging any language, facts or action by which the defendant did wilfully, by words and language, oppose the cause of the United States in the war with the Imperial German Government;

(70.) in that it fails to point out, designate and descend to particulars in charging any language, facts or action by which the defendant did then and there utter, state, publish and say, advocating, teaching, depending and suggesting the doing of all the acts and things set forth in the said alleged public address;

(71.) in that said count charges several separate and distinct offenses;

(72.) in that said count is incomplete in and of itself, and is ambiguous in that it refers to and attempts to make a part of said count the allegations and contents of various other counts therein referred to.

Tenth Count.

(73.) is insufficient in that it fails to properly charge an offense in that it does not descend to particulars and omits a state-

159 ment of facts or circumstances constituting an offense;

(74.) in that the statement in words and figures therein charged to have been made and uttered by the defendant do- not appear to be a statement of facts or circumstances, but the expression of an opinion upon the political and industrial policies and attitude of the Administration and Governments of various countries;

(75.) in that it fails to allege that Clyde R. Miller and Dennis R. Smith were a part of the military and naval forces of the United States, or in the military and naval services of the United States, or that they then and there heard of or became cognizant of the false reports or false statements charged to have been uttered, made, or conveyed by the defendant;

(76.) in that it fails to descend to particulars and state facts circumstances, words, language, speech, address or utterance the defendant wherein the defendant did unlawfully and wil oppose the cause of the United States in the war with the Imp German Government;

(77.) in that each and every count of said indictment where purports to set forth and allege the words, language, speech, reports and false statements, literally or in substance, to have caused, made, uttered, or conveyed by the defendant, appears incomplete by reason of substantial omissions and additions.

Because of the foregoing and divers other good reasons the indictment and each and every count thereof fails to charge a fense against the defendant; therefore, the defendant prays j ment whether he ought to be required to further plead to the in ment herein presented against him.

160 SEYMOUR STEDMAN,
MORRIS H. WOLF,
JOSEPH W. SHARTS,
Attorneys for Defenda

161 (Memorandum Opinion Filed Sep. 3, 1918.)

In the United States District Court, Northern District of Ohi Eastern Division.

No. 4057. Indictment.

UNITED STATES OF AMERICA, Plaintiff,

vs.

EUGENE V. DEBS, Defendant.

Memorandum.

Westenhaver, District Judge:

The motion to quash will be overruled. Points 1 to 7 inclu were raised in the case of United States of America v. Ruthenb et al., and ruled adversely to the present contention of the defend These rulings were later affirmed by the United States Supr Court. Point 8 is without substance, for obviously a grand jury inquire into an offense committed after it was summoned or panelled as well as one committed prior thereto.

On consideration of the demurrer to this indictment counts 5 and 9 will be disregarded, as the United States Attorney has nounced in his brief on this demurrer an intention to enter a n prosequi as to each of them. The demurrer will be overruled a the remaining counts, although counts 6, 7 and 8 are reserved further consideration. My present inclination is to withdraw co 8 from consideration.

My purpose is, if time can be found, to file a memorandum opinion, but as I am by designation required to sit in an important case in the Southern District of Ohio, which may take several days, I probably will be unable to do so before the trial.

Each of the counts, except, perhaps, 8, is, in my opinion, sufficient in form and substance, and is unobjectionable on the ground of duplicity. Any contention that the Espionage Law is uncon-
162 stitutional is, in my opinion, frivolous and entirely devoid of merit.

An exception may be noted to these rulings.

D. C. WESTENHAVER.
Judge.

Cleveland, Ohio, September 3, 1918.

163 (*Nolle Prosequi Entered as to Counts Nos. 1-2-5 & 9 ent. September 4, 1918 by Judge Westenhaver.*)

No. 4057. Criminal.

THE UNITED STATES OF AMERICA

vs.

EUGENE V. DEBS.

On application of the United States Attorney, it is ordered that a Nolle Prosequi be entered as to each of counts numbers 1, 2, 5 and 9 of the Indictment returned herein.

164 (*Order Overruling Demurrer-Exceptions ent. Sept. 4, 1918 by Judge Westenhaver.*)

THE UNITED STATES OF AMERICA.

vs.

EUGENE V. DEBS.

No. 4057. Criminal.

This day this cause came on to be heard on defendant's demurrer to the Indictment herein and was submitted to the Court on briefs of both parties; on consideration thereof the Court overruled said demurrer to which ruling of the Court defendant, by his attorneys, excepts.

165 (*Order Overruling Motion to Quash-Exceptions ent. Se*
1918 *by Judge Westenhaver.*)

No. 4057. Criminal.

THE UNITED STATES OF AMERICA

vs.

EUGENE V. DEBS.

This day this cause came on to be heard on motion of defe
to quash the Indictment returned herein and was submitted t
Court, on consideration thereof the Court overruled said moti
which ruling of the Court defendant, by his attorneys, excepts.

166 (*Defendant re-arraigned. Plea not guilty to* 3, 4, 6,
& 10 *Counts. Jury impanelled and sworn—trial proce*
Entered September 9, 1918 *by Judge Westenhaver.*)

No. 4057. Criminal.

THE UNITED STATES OF AMERICA

vs.

EUGENE V. DEBS.

This day came the United States Attorney on behalf of the U
States and also came the defendant accompanied by counsel a
bar of Court and said defendant having withdrawn his plea o
guilty heretofore entered, and filed his motion to quash and hi
murrer, which motion and demurrer were overruled by the Cou
which order and judgment of the Court the defendant then
there excepted, whereupon said defendant being again arraig
waived the reading of the Indictment and for plea thereto says
he is not guilty in manner and form as he is by the third, fo
sixth, seventh, eighth and tenth counts of the Indictment th
and thereby charged. Thereupon a jury being called came to
Hiram Shaub, Joseph Pifer, K. Y. Hart, C. P. Dickerman, Ma
Bettes, Cyrus Stoner, Henry C. Dielhenn, John S. Kollar, Ste
McGowan, Chas. H. Slingluff, Henry Jolly and S. R. Moon,
being duly empaneled and sworn the trial of this cause proce
as to the said third, fourth, sixth, seventh, eighth and tenth co
of the Indictment herein, a Nolle Prosequi having heretofore or
fourth day of September, A. D. 1918 been entered as to the
second, fifth and ninth counts of the Indictment, statements of c
sel to the jury having been concluded, and the hour of adjourn
having arrived, further proceedings were continued until tomo
morning at 9:30 o'clock.

167 (*Trial in progress ent. Sept.* 10, 1918 *by Judge Westenhaver.*)

No. 4057. Criminal.

THE UNITED STATES OF AMERICA

vs.

EUGENE V. DEBS.

This day came again the United States Attorney on behalf of the United States and also came the defendant accompanied by counsel and the Jury heretofore duly empanelled and sworn at the bar of Court and the trial of this cause proceeded. Testimony in chief on behalf of The United States was begun but not concluded when the hour of adjournment arrived, whereupon further proceedings were postponed until tomorrow morning at 9:30 o'clock.

168 (*Trial in progress ent. Sept. 11th,* 1918 *by Judge Westenhaver.*)

No. 4057. Criminal.

THE UNITED STATES OF AMERICA

vs.

EUGENE V. DEBS.

This day came again the United States Attorney on behalf of the United States and also came the defendant accompanied by counsel and the Jury heretofore empanelled and sworn and the trial of this cause proceeded. Testimony in chief on behalf of the United States was resumed and concluded, and the defendant not desiring to offer any testimony in his behalf moved the Court to instruct the Jury to find him Not Guilty as to each and every count of the Indictment herein, and it appearing that the Court had heretofore entered a Nolle Prosequi as to the first, second, fifth and ninth counts of the Indictment, it is after due consideration ordered by the Court that the said motion be and the same is hereby sustained as to the sixth and eighth counts of the Indictment, and as to the third, fourth, seventh and tenth counts of the Indictment, the said motion be and the same is hereby overruled to which ruling and judgment of the Court the defendant then and there excepted. Arguments to the Jury having been concluded and the hour of adjournment having arrived, further proceedings were postponed until tomorrow morning at 9:30 o'clock.

169 (*Trial concluded—verdict guilty as to* 3, 4 & 7 *
not guilty as to* 6, 8 & 10 *Counts of Indictmen*
Sept. 12, 1918 *by Judge Westenhaver.*)

No. 4057. Law.

THE UNITED STATES OF AMERICA

vs.

EUGENE V. DEBS.

This day came again the United States Attorney on bel
United States and also came the defendant accompanied
and the jury heretofore duly empanelled and sworn ac
law at the bar of Court and the trial of this cause proceede
upon the Jury having received their instructions from the
tired to their room in charge of a sworn officer of this Cou
erate upon their verdict. And after a while came again
into open court and presented their verdict in writing,
their foreman which verdict reads and is in the words a
following to wit:

"United States of America, Northern District of Ohi
Division SS. April Term, A. D. 1918. The United States
vs. Eugene V. Debs, Defendant. In the District Court of t
States. No. 4057. Verdict. We, the Jury in this case,
impanelled and sworn, do find as to the 3rd Count of the I
the Defendant is guilty; as to the 4th Count of the Indic
the Defendant is guilty; as to the 6th Count of the Indic
Defendant is not guilty; as to the 7th Count of the Indic
Defendant is guilty; as to the 8th Count of the Indictmer
fendant is not guilty; as to the 10th Count of the Indic
defendant is not guilty. Cyrus Stoner, Foreman."

which verdict was by the Clerk of this Court read in the
said jury, when to which they gave their assent,
170 at request of counsel for defendant that the jury
each and every one of said jurors was separately i
if the verdict as read was his verdict, each to said in*ju-ry*
in the affirmative, and the defendant having in open C
notice of his intention to file a motion for a new trial, it
that said motion be assigned to be heard on Saturday,
14th, A. D. 1918 at 9:30 o'clock in the forenoon, and tha
disposition of said motion for a new trial the recognizance
entered into by said defendant for his appearance here in
to answer unto the Indictment herein remain in full force

171 (*Motion for New Trial, Filed Sep.* 14, 1918.)

In the District Court of the United States for the Northern District of Ohio, Eastern Division.

No. 4057. Criminal.

THE UNITED STATES OF AMERICA, Plaintiff,

vs.

EUGENE V. DEBS, Defendant.

Motion for New Trial.

Now comes Eugene V. Debs, by Seymour Stedman, W. A. Cunnea, Joseph W. Sharts, Isaac E. Ferguson and Morris H. Wolf, his attorneys, and moves the Court to set aside the verdict rendered herein and to grant a new trial, and for reasons therefor, show to the Court the following:

(1.) The Court erred in overruling defendant's motion to quash the indictment and each count thereof.

(2.) The Court erred in overruling defendant's demurrer to the indictment and each count thereof.

(3.) The verdict is contrary to the law of the case.

(4.) The verdict is not supported by the evidence in the case.

(5.) The Court, upon the trial of the case, admitted incompetent evidence offered by the United States.

(6.) The Court erred in refusing to direct a verdict of "not guilty" for the defendant at the close of the Government's evidence.

(7.) The Court erred in not directing a verdict of "not guilty" for the defendant on counts 3, 4, 7 and 10.

(8.) The Court erred in permitting the attorneys for the prosecution to appeal to the political passions and prejudices of the

172 jurors in their arguments.

(9.) The Court erroneously refused to sustain proper challenges of jurors interposed by the defendant for cause, thereby causing the defendant, to his prejudice, to exhaust his peremptory challenges.

(10.) The Court erred in curtailing and limiting the argument of the defendant to the Jury.

(11.) The Court improperly charged and instructed the Jury to the defendant's prejudice.

(12.) The Court improperly refused, to defendant's prejudice, to give correct instructions requested and tendered by the defendant.

(13.) Because of which said errors in the record herein, no lawful judgment can be rendered by the Court upon the record in this cause.

SEYMOUR STEDMAN,
W. C. CUNNEA,
JOSEPH W. SHART,
MORRIS H. WOLF,
I. E. FERGUSON,
Attorneys for Defendant.

173 (*Motion in Arrest of Judgment, Filed Sept.* 14, 19

In the District Court of the United States for the Northe
of Ohio, Eastern Division.

No. 4057. Criminal.

THE UNITED STATES OF AMERICA, Plaintiff,

vs.

EUGENE V. DEBS, Defendant.

Motion in Arrest of Judgment.

Now, after verdict against the defendant, Eugene V.
before sentence, comes the said defendant in his own pro
and by Seymour Stedman, W. A. Cunnea, Joseph W. Sh
E. Ferguson and Morris H. Wolf, his attorneys, and
Court herein to arrest judgment herein and not pronounce
for the following reasons, to-wit:

(1.) The Court erred in overruling defendant's motion
the indictment and each count thereof.

(2.) The Court erred in overruling defendant's demur
indictment and each count thereof.

(3.) The verdict is contrary to the law of the case.

(4.) The verdict is not supported by the evidence in th

(5.) The Court, upon the trial of the case, admitted in
evidence offered by the United States.

(6.) The Court erred in refusing to direct a verdict of "n
for the defendant at the close of the Government's evidenc

(7.) The Court erred in not directing a verdict of "not g
the defendant on counts 3, 4, 7 and 10.

(8.) The Court erred in permitting the attorneys for
cution to appeal to the political passions and prejudices of
in their arguments.

174 (9.) The Court erroneously refused to sustain pr
lenges of jurors interposed by the defendant for caus
causing the defendant, to his prejudice, to exhaust his pe
challenges.

(10.) The Court erred in curtailing and limiting the
of the defendant to the Jury.

(11.) The Court improperly charged and instructed th
the defendant's prejudice.

(12.) The Court improperly refused, to defendant's pre
give correct instructions requested and tendered by the defe

(13.) The Court erred in overruling the motion for a

(14.) Because of which said errors in the record herein,
judgment can be rendered by the Court upon the record in t

SEYMOUR STEDMA
W. A. CUNNEA.
JOSEPH W. SHARTS
MORRIS H. WOLF.
I. E. FERGUSON.
Attorneys for Defe

175 (*Motion for New Trial and Arrest of Judgment Overruled; Exceptions Noted—Defendant Sentenced to State Penitentiary, Moundsville, West Virginia, as to 3rd Count for Period 10 Years, etc., Entered September 14th, 1918, by Judge Westenhaver.*)

No. 4057. Criminal.

THE UNITED STATES OF AMERICA

vs.

EUGENE V. DEBS.

This day came again the United States Attorney on behalf of the United States and also came the defendant accompanied by counsel at the bar of court, and thereupon came on to be heard defendant's motion for a new trial, and motion for arrest of judgment which motions after due consideration were each separately overruled by the Court, to which rulings and orders of the Court the said defendant then and there excepted, and the United States Attorney having moved the Court for sentence, and the defendant being inquired of by the Court whether he had anything to say before sentence was pronounced upon him and receiving defendant's reply, it is ordered that said defendant as to the third count of the Indictment be imprisoned in the State Penitentiary, Moundsville, West Virginia, for a period of Ten (10) Years; as to the fourth count for a period of Ten (10) Years, and as to the seventh count for a period of Ten (10) Years, from and after the 17th day of September, A. D. 1918 the said sentence to run concurrent and not cumulatively, to which sentence and the order of the Court the defendant then and there excepted and gave notice in open court of his intention to appeal this cause and filed his petition for Writ of Error to The Supreme Court of The United States, which petition was allowed by the Court and said defendant was allowed fifty (50) days within which to prepare and file his Bill of Exceptions and any amendment to the Assignment of Errors filed herein.

176 It is further ordered on motion of counsel for defendant that said defendant enter into a recognizance in the sum of Ten Thousand ($10,000.00) Dollars conditioned according to law and further as herein provided with sureties to be approved by the Clerk of this Court or his authorized deputy for his appearance here in this Court from day to day hereafter pending a hearing upon a Writ of Error to The Supreme Court of the United States, and shall surrender himself to the United States Marshal, and that he shall then and there be present to abide the order and judgment of this Court or the said The Supreme Court of the United States, and not depart the jurisdiction of this Court without leave thereof, and while at large to duly keep and observe the laws of the United States of America, and the Court having granted leave to said defendant to leave the jurisdiction of this Court for the purpose of returning to

his abode in the State of Indiana and no further, the said defendant, Eugene V. Debs, came as principal, with Marguerite Prevy of Akron, Ohio, and A. W. Moskovitz of Cleveland, Ohio, and entered into the required recognizance.

177 (*Order Approving Bill of Exceptions in Narrative Form Entered October 15th, 1918, by Judge Westenhaver.*)

No. 4057. Criminal.

THE UNITED STATES OF AMERICA

vs.

EUGENE V. DEBS.

This day the bill of exceptions in narrative form in this case was presented to the court, the same having been delivered to the clerk by the excepting party in accordance with Rule 38 of the General Rules of this court, and the adverse counsel having been notified of such delivery and no objections thereto having been filed, the same is allowed and signed, and ordered to be filed in this case.

178 UNITED STATES OF AMERICA:

In the United States District Court, Northern District of Ohio, Eastern Division.

No. 4057.

UNITED STATES, Plaintiff,

vs.

EUGENE V. DEBS, Defendant.

Defendant's Bill of Exceptions.

Appearances:

For the Government: Edwin S. Wertz, Esq., United States Att'y; Francis B. Kavanagh, Esq., Ass't U. S. Att'y; and Joseph C. Breitenstein, Esq., Ass't U. S. Att'y.

For the Defendant: Morris H. Wolf, Esq.; Seymour Stedman, Esq.; William Cunnea, Esq.; and Joseph W. Sharts, Esq.

179 Thereupon a jury was called and took their seats in the jury-box.

During the examination by Mr. Sharts of the jury, in his examination of Mr. JOSIAH T. GRANT, who was called on the jury, the following proceedings were had:

By Mr. Sharts:

Q. Mr. Grant, have you ever served in the armies of the United States?

A. Yes, sir; I have.

Q. Are you drawing a pension?

A. I am.

Mr. Sharts: If your Honor please, it was your ruling in a former case in which I appeared for the defense that where a juror is receiving money from the government he is not in a position to act as an impartial juror.

The Court: You complete your examination of Mr. Grant on all grounds, and then I will rule on your challenge.

Q. Have you ever, Mr. Grant, expressed any opinion with regard to Mr. Debs? in any conversation with your friends?

A. I have not.

Q. Are you familiar with Mr. Debs' work?

A. What I have read in the papers. That he is a Socialist.

Q. Have you an opinion with regard to Socialists in general?

A. I couldn't say that I had, especially.

Q. Have you ever expressed an opinion with regard to Socialists?

A. I possibly may have.

180 Q. Do you recall what that opinion was?

A. No, I don't know as I could.

Q. You have formed an opinion with regard to Socialists, have you?

A. I have; yes, sir.

Q. Will you please state what that opinion is?

A. I have been rather opposed to it.

Q. You are opposed to Socialism?

A. Yes, sir.

Q. Are you acquainted with any Socialists?

A. We have quite a representation in our town. They have had control of our local administration for two terms.

Q. Have you formed any opinion with regard to Socialists from what you have seen?

A. I don't know as I could answer the question.

Q. Well, Mr. Grant, do you recall ever having made the remark that you have no sympathy with Mr. Debs or his ideas?

A. I have made the remark that I had no sympathy with the Socialists. I never connected it with Mr. Debs, to my remembrance.

Q. You knew he was a Socialist?

A. Yes.

Q. Your lack of sympathy for the Socialists would include Mr. Debs, would it not?

A. I take them as a party.

Q. Yes. You are opposed to their ideas?

A. I am opposed to their ideas; yes, sir.

Q. Now, Mr. Grant, having that feeling and conviction o
181 opposition to the Socialists and their ideas, do you feel tha
you could sit here as an impartial juror in this case?
A. I wouldn't hardly.

Mr. Stedman: Challenge for cause at this time.

The Court: Now, Mr. Grant, will you answer some questions th
Court wishes to ask you: have you formed or expressed any opinio
as to the guilt or innocence of Mr. Debs, as to the charge that he i
on trial for here?

Mr. Grant: I have not.

The Court: Have you any knowledge or information about th
charge, or about the matter, other than such matters as you hav
read in the public prints that there was a case pending?

Mr. Grant: Nothing further than what I have read. I just barel
noticed the matter of his being arrested.

The Court: Are you conscious, as a result of your unfavorabl
opinion of the Socialists' principles, politically and socially, of an
bias or prejudice which would prevent you from trying this cas
according to the law and the evidence, and render a fair and im
partial verdict?

Mr. Grant: I am not.

The Court: Notwithstanding your opinion as to Socialism and
Socialists, you have expressed, I want you to search your conscienc
and answer the Court whether or not you feel that you can lay that
opinion aside and hear the testimony and receive the law
182 from the Court, and render a verdict in accordance with that
evidence and the law?

Mr. Grant: I could.

The Court: Gentlemen, the rule that I intend to follow in this
matter is that which was announced by the Supreme Court of the
United States, in the case of Reynolds against the United States, 98
U. S. p. 145. That was a trial in the Territory of Utah. The de-
fendant was indicted on a charge of bigamy. The defense was that
he was a Mormon and believed religiously in polygamy, and that
it was a part of the religious duty of a Mormon to have a plurality
of wives. There were several jurors challenged for cause in that
case, and the challenge overruled. Among them was Eli Ranschoff,
who answered this question: "Have you formed or expressed an
opinion as to the guilt or innocence of the prisoner at the bar?"
His answer was: "I have expressed an opinion by reading the papers
with the reports of the trial."

Q. "Would that opinion influence your verdict in hearing the
evidence?"

A. "I don't think it would."

Q. "You stated that you had formed some opinion by reading the
reports of the previous trial?"

A. "Yes."

Q. "Is that an impression which still remains upon your mind?"

A. "No; I don't think it does; I only glanced over it, as
183 everybody else does."

Q. "Do you think you could try the case wholly uninfluenced by any thing?"

A. "Yes."

CHARLES READ is another juror.

He was asked: "Have you formed or expressed any opinion as to the guilt or innocence of this charge?"

A. "I believe I have formed an opinion."

By the Court: "Have you formed and expressed an opinion?"

A. "No, sir; I believe not."

Q. "You say you have formed an opinion?"

A. "I have."

Q. "Is that based upon evidence?"

A. "Nothing produced in court."

Q. "Would that opinion influence your verdict?"

A. "I don't think it would."

By Defendant: "I understood you to say that you had *had* formed an opinion, but not expressed it."

A. "I don't know that I have expressed an opinion; I have formed one."

Q. "Do you now entertain that opinion?"

A. "I do."

The defendant challenged each of these jurors for cause, and it was overruled and exception noted. Mr. Justice Waite, delivering the opinion, said: "All of the challenges by the accused were for principal cause. It is good ground for such a challenge that
184 a juror has formed an opinion as to the issue to be tried. The courts are not agreed as to the knowledge upon which the opinion must rest in order to render the juror incompetent, or whether the opinion must be accompanied by malice or ill-will; but all unite in holding that it must be founded on some evidence, and be more than a mere impression. Some say it must be positive; others, that it must be decided and substantial; others, fixed; and, still others, deliberate and settled. All concede, however, that, if hypothetical only, the partiality is not so manifest as to necessarily set the juror aside."

Mr. Justice Marshall, in Burr's trial, states the rule to be that "light impressions, which may fairly be presumed to yield to the testimony that may be offered, which may leave the mind open to a fair consideration of the testimony, constitute no sufficient objection to a juror; but that those strong and deep impressions which close the mind against the testimony that may be offered in opposition to them, which will combat that testimony and resist its force, do constitute a sufficient objection to him." The theory of the law is that a juror who has formed an opinion cannot be impartial. Every

opinion which he may entertain need not necessarily have that effec
In these days of newspaper enterprise and universal education, ever
case of public interest is almost, as a matter necessity, brought
the attention of all the intelligent people in the vicinity, an
185 scarcely any one can be found among those best fitted fo
jurors who has not read or heard of it, and who has not son
impression or some opinion in respect to its merits. It is clea
therefore, that upon the trial of the issue of fact raised by a cha
lenge for such cause the court will practically be called upon to d
termine whether the nature and strength of the opinion formed a
such as in law necessarily to raise the presumption of partiality."

The general rule is that where the juror has received an impre
sion of that kind not based upon evidence, or upon a persona
acquaintance with the facts of the case to be tried, if he feels, an
the Court is satisfied that he in good faith feels, that such impre
sions can be laid aside, that he will take the evidence as it is pr
duced in court, and apply the law and follow the law as the cou
gives it, then he is not a disqualified juror. Manifestly, if that wer
not the law, it would be impossible to obtain a jury man, or qualifie
jurors in any case of sufficient public interest to have attracted th
attention of the newspapers.

Mr. Stedman: If your Honor please, is there any distinction be
tween opinion, no matter how previously formed, of guilt or inno
cence, and an opinion adverse or prejudicial to a sect, a class, or
political party, which is perfectly legal?

186 The Court: No.

Mr. Stedman: Prejudice against crime is, of course, legiti
mate, but a prejudice agains the belief or the doctrine of a perso
which is carried over into an opinion, resulting in a prejudice agains
their action, which would become an element in trial, would no
that be different?

The Court: No. I have weighed that aspect of the matter. In thi
particular instance the juror has said that he knows them, and tha
he has not a favorable opinion of the Socialist doctrines, nor, indeed
such Socialists as he has known. But that has no relation whatevo
to the charge upon which the defendant is to be put upon trial here
I shall state to the jury, and I am sure the jury such as will b
empanelled will be intelligent enough to understand, that the de
fendant will not be tried because he is a Socialist—that the Socialis
party will not be tried here, but that the defendant will be trie
here upon this specific charge—whether or not he violated, by acts
words and conduct, the specific provisions of the law upon whic
he is indicted.

Now, to pursue your argument a little further: suppose a man
upon trial was a Democrat, and belonged to the Democrat party
and had committed some offense, and the juror being interrogated
was not an advocate of the cause of the Democratic candidate o
Democratic party, could it be said that because the jury man
187 was not affiliated with that party or cause, and entertained an
unfavorable opinion of the Democratic party or individuals
or that he entertained an unfavorable opinion of the policies and

principles of that party, that therefore no one who is in that frame of mind was a qualified juror?

I am of the opinion that is not and would not be grounds for disqualification. I permitted the inquiries of counsel for a reason which is quite well known to us in the practice. You have two kinds of challenges which you are entitled to: You are entitled to challenge for cause that is addressed to the Court, and the Court passes upon it. You are also entitled to a number of peremptory challenges, and in order to inform yourself as to the probably attitude, or any information concerning a jury man, a wider range of inquiry is permitted than otherwise would be legitimate. There is nothing in the answers of the jury man, in the opinion of the Court, which, under the well-settled rule, disqualifies him for cause as a juror upon that ground.

Now, passing to the other question—that the juror was a soldier and draws a pension as a result of service thus performed. On the trial to which Mr. Sharts refers, I do not doubt that you will recall that I did not agree that it was a ground of disqualification, but as a matter of favor I permitted to be set aside such jury men as were thus situated. The only case to which my attention was called at that time, and the only one that I was able to discover that
188 was cited as an authority bearing upon the proposition, was a case involving the trial of somebody in the District of Columbia, and the opinion was rendered by Mr. Justice Harlan. He held there that it was ground for challenge for cause, in which the Government was a party, where the juror was a Government clerk. I did not think then that the fact that a man who has a pension for services performed as a soldier would bring it within that rule. Such reflection as I have given it since convinces me that I was right in entertaining that opinion. I am not willing to establish and to follow a rule in this court that disqualifies men from jury service who are in that situation.

I will overrule the challenge of this jury man for cause, and you may, of course, have your exception to the ruling of the Court.

Mr. Stedman: Exception.

During the examination by Mr. Sharts of the jury, in his examination of CHARLES O. HALE, who was called on the jury, the following proceedings were had:

By Mr. Sharts:

Q. Have you ever expressed any opinion with regard to Mr. Debs?

A. I don't remember, now, that I have. I have had an opinion, of course, by reading.

Q. Do you recall what opinion you have formed on the subject?

A. Well, my opinion is not altogether favorable to Mr.
189 Debs.

Q. In other words, you are unfavorably impressed?

A. Yes.

Q. With Mr. Debs and also with his——

A. Socialist teachings.

Q. And his propaganda?

A. Yes, sir.

Q. Mr. Hale, if the positions were reversed, and you were here as the defendant, would you be willing to be tried by a jury of men composed of persons who felt toward you as you feel toward Mr Debs?

Mr. Wertz: I object.
The Court: The objection to that question will be sustained.
Mr. Stedman: Exception.

During the examination by Mr. Cunnea of the jury in his examination of JAMES DECKER, who was called on the jury, the following proceedings were had:

By Mr. Cunnea:

Q. Do you believe that a man has a right to differ in his opinion as to war aims, and to discuss it?

Mr. Wertz: Object.
The Court: He may answer.

A. So long as his opinion and his expression of his opinion does not interfere with the aims of this Government in the prosecution of this war, I have no objections to it.

Q. And you believe in a limited discussion on certain lines?

A. Sure.

190 Q. But you don't believe in a full and free discussion of the aims of the Government?

Mr. Wertz: Object.
The Court: Objection sustained.
Mr. Cunnea: Exception.

Q. Do you believe in the right to free speech and free discussion under the constitution?

Mr. Wertz: Object.
The Court: He may answer.

A. Well, as stated before, as long as it does not conflict with the Government's aims in the prosecution of this war.

Q. Do you mean that free speech—free discussion along the Government line is permissible and otherwise not?

Mr. Wertz: Object.
The Court: Objection sustained.
Mr. Cunnea: I want to know just what the viewpoint of the juror is.
The Court: The view point of the juror is quite apparent to the Court, and should be apparent to you.
Mr. Cunnea: Exception.

Q. Do you make any distinction between the cause of the United States as mentioned in this indictment, and the reason for the war?

Mr. Wertz: Object.

The Court: I think that is a legal question. I sustain the objection.

Mr. Cunnea: Exception.

191 Q. Mr. Decker, have you any lingering feeling of bias or prejudice against a man who might take issue with the Government on the question of this war?

Mr. Wertz: Object.

The Court: Objection sustained.

Mr. Cunnea: Exception.

Mr. Stedman: If your Honor please, I am rather reluctant to call attention to any matter that is ruled upon, but a person would have a right to be prejudiced against a person who opposes the cause of the United States in the war. It seems to me that where a jury man is interrogated, and there is reasonable indication that he uses the term "aim" synonymous with "cause" that it would be proper to ask the jury man whether he distinguishes between the two, because he would have a right to be prejudiced against one, and, legally, not against the other.

The Court: I don't think that I have any occasion to modify the ruling I have made. I am entirely content with it.

During the examination by Mr. Stedman of the jury, in his examination of CHARLES NORTHARD, who was called on the jury, the following proceedings were had:

By Mr. Stedman:

I am fifty-eight years old. I am gard-ner for the city of Cleveland. I have never expressed an opinion on Socialism. I have lived in this city about forty-five years. I have not participated very much in its politics. I have *I have* never discussed Socialism
192 with any one the entire time I have lived in the city. I have not heard very much of the subject. I never heard the subject of Socialism mentioned in Cleveland very much. I go up and down the thoroughfare. I pass through the Public Square every day when I am going to my work and going home. I never heard of Debs; I read English; I take the Plain Dealer and the Leader and the News, and read some of them right along. I never heard the name, Eugene V. Debs. I was born in England and came to this country when I was ten years old. I was naturalized by my father's papers.

Mr. Stedman: Challenge for cause.

The Court: Challenge for cause will be overruled. According to the principles you were urging upon me a moment ago, he is entitled to be a jury man.

Mr. Stedman: I am not urging the principle that your Honor seems to ascribe to me,—that if a person is not of an investigating

turn of mind at all, that it means necessarily a good juror. I ha
suggested that.

The Court: We will not have any discussion about it, but a
lenge was made for cause earlier in this hearing because a jury
knew something of Socialism and didn't entertain a favorable
ion as a result of that knowledge.

Mr. Stedman: If your Honor please, we desire to except to
the Court has said in the presence of the jury.

The Court: You may have that exception.

193 UNITED STATES OF AMERICA:

In the United States District Court, Northern District of Ol
Eastern Division.

No. 4057.

UNITED STATES, Plaintiff,

vs.

EUGENE V. DEBS, Defendant.

Defendant's Bill of Exceptions.

Be it remembered that, on the trial of the above entitled ca
the District Court of the United States for the Northern Distr
Ohio, Eastern Division, at the September, 1918, term thereof,
the Honorable D. C. Westenhaver, judge of said Court, and the
duly empanelled and sworn, the following proceedings were ha

The trial commenced September 9, 1918.

Appearances:

For the Plaintiff: Edwin S. Wertz, Esq.; Francis B. Kava
Esq.; and Joseph C. Breitenstein, Esq.

For the Defendant: Morris H. Wolf, Esq.; Seymour Sted
Esq.; William Cunnea, Esq.; and Joseph W. Sharts, Esq.

194 Thereupon, the Government, to maintain the issues
part to be maintained, called as a witness CLYDE R. MI
who, being first duly sworn, testified as follows:

Direct examination by Mr. Mertz:

My name is Clyde R. Miller. I am a news writer on the
Dealer and have been for pretty close to two years. Prior to
time I was news writer on the Ohio State Journal, in Colu
Ohio. I was a news writer on the Ohio State Journal abou
year; prior to that date I was engaged in writing advertising

for all papers at Columbus. I know the defendant, Eugene V. Debs; I first became acquainted with him at Canton, Ohio, on the sixteenth of June, 1918. I was asked to go to Canton by the state editor of the Plain Dealer, to send back to the paper an account of the Ohio Socialist convention which was closing at Canton on the sixteenth of June, and at which Mr. Debs was to be the speaker. I met Mr. Debs for the first time in the lobby of the Courtland Hotel at Canton, just a short while before he was to address the convention. Canton is in Stark county, in the northern district of Ohio. The Stark County workhouse is located in Canton. Mr. Debs made his address from a band stand in a public park called Nimisila park close to the workhouse. Mr. Debs opened his address by saying that he had just come from "over yonder" indicating with a gesture the workhouse, that he had talked with Mr. Ruthenberg, Mr. Wagenknecht, and Mr. Baker who were confined there and stated
195 that they were in there for what they had done for Socialism, that they were paying the price men had always paid to make the world better. There were, I should judge, about anywhere from twelve to fifteen hundred persons in the audience when this address was made. I am a citizen of the United States; I am thirty years of age. At the time this address was made by Mr. Debs I was twenty-nine. I had registered for the selective draft at that time.

Q. I hand you Government's Exhibit No. 1 and ask you if you are familiar with that publication?

A. I am somewhat familiar with it, largely by reputation.

Q. How did you become familiar with that, or have you a knowledge of that publication?

A. Well, I had a long talk, some two hours' conversation, with one of the editors of this Socialist Review at Canton, on the night of the day that Mr. Debs spoke at Canton.

Q. You may state whether or not that is a well recognized organ of the Socialist Party?

Mr. Cunnea: That is objected to.

The Court: I don't see any materiality in that. I sustain the objection, unless you can show something for it.

Q. I call your attention to pages 670, 671, and 672 and ask you to look at those pages. What do those pages purport to be, if you know?

Mr. Cunnea: If the court please, that is objected to.

196 The Court: I don't know, of course, what the contents of those are, but it would not appear that that is competent, and that would not be the way to get at it.

Mr. Wertz: It is a little ahead of time, your Honor. I will withdraw the question and ask another one.

Q. Did you have a conference with Mr. Debs at Canton relative to the matter contained on those pages?

A. Yes, sir.

Q. Now, what do those pages purport to be?

Mr. Stedman: That is objected to.

The Court: In a way, of course, the article will speak for itself.

What it purports to be might be his conclusions on it. But had a conference with Mr. Debs with reference to those pages, see how it would be material to state what the result of his confe with Mr. Debs, the defendant, was. That may then make the competent. I will look at the pages, however, before I rule (To the witness.) You had a conference with Mr. Debs in those pages were referred to, as I understand you?

The Witness: Yes, sir.

Mr. Stedman: I am objecting to it as leading, I think he ou state what his entire conversation was.

The Court: Yes. This is merely preliminary. Now, then ceed with your next question.

Q. I hand you Government's Exhibit No. 2 and ask you amine that and say what that is?

197 Mr. Stedman: I want to object to him characterizing i will show for itself.

The Court: You may examine it, Mr. Miller. You hav amined it?

The Witness: Yes, sir.

The Court: You have seen it before?

The Witness: Yes, sir.

The Court: The rest of the question, as to his stating what the objection to that will be sustained.

Q. Did you have a conference with Mr. Debs relative to the of that paper which you have in your hand? I mean that m "The Majority Report."?

Mr. Stedman: We object to it.

The Court: Objection will be overruled. He may answe or no.

A. Yes, sir.

Mr. Stedman: I want to move to strike it out, on the ground it is a conclusion, as the language used either by Mr. Debs witness is not shown.

The Court: Objection overruled.

Mr. Stedman: Exception.

Q. I hand you paper marked Government's Exhibit No. 5 ask you to examine the part of this paper on page 2 marked a red pencil. Have you ever seen those statements before?

A. I have seen statements very similar to them; perhaps n actly the same wording.

Q. Did you discuss the substance of what is contain
198 that article with Mr. Debs at Canton, Ohio, at the tim have stated, or not?

A. I did.

Mr. Stedman: I object to it.

The Court: This is preliminary. His answer is that he d will let that stand.

Mr. Stedman: Objected to as incompetent and drawing a conclu
sion from the statement where he characterizes his conclusion of som
thing similar to another document, and then another conclusion as
whether they discussed it or not, without stating the language.

The Court: The ruling will stand.

Mr. Stedman: Exception.

Q. I hand you Government's Exhibit No. 6 and ask you to loo
at the article at the left hand side of the page at the top, and ask yo
if you ever saw that before?

A. I did. I discussed the contents of this particular article wit
Mr. Debs at Canton at the time I interviewed him.

Q. Referring to Government's Exhibit No. 1 and 2—the articl
contained in those which you have already testified you discusse
with Mr. Debs, will you tell the jury what you said to Mr. Debs o
those subjects, and what he said to you?

A. I met Mr. Debs in the lobby of the Courtland Hotel, betwee
one and two o'clock, shortly before he was to depart for the park.
had read in the newspapers, particularly in the Plain Dealer, a
article to the effect——

Mr. Stedman: I wish to object to this.

199 The Court: You started to state you read something in
newspaper. You need not state what the substance of it wa
but as a result of what you read you then had an interview with M
Debs. Now, then, state what you said to Mr. Debs and what he sai
to you—the subject matter of it, and the exact substance as fully
you can.

The Witness: As a result of what I had read, I asked Mr. Debs
the printed reports that he had repudiated the St. Louis platform
the Socialist Party, adopted in St. Louis in April of the year shortl
after we had entered into the war—I asked him if the report tha
he had repudiated that so-called anti-war platform was true. H
said that it was not true. He said, "I approved——"

Mr. Stedman: Just a second. I want to object to this as incon
petent and immaterial until the statement alleged to have been mad
or stated by Mr. Debs, is offered in evidence. It is incompetent
show intent, and incompetent to show the frame of mind or cond
tion at this time.

The Court: The objection of counsel will be overruled, and h
may have an exception. (To the jury:) Statements made by M
Debs other than the specific statements charged against him in th
indictment as an offense will be received by you, gentlemen of th
jury, for the purpose of determininig whether or not he di
200 make or utter the words charged against him in the indic
ment. An element of the offense charged in the indictmen
however, is the specific intent with which the words and utteranc
were made and acts done as charged in the indictment. Now, th
testimony which is now being offered as to statements made by M
Debs other than those specified in the indictment, is to be receive

and will be received and weighed only for the purpose
you to find and determine the intent with which the word
ances were made as charged in the indictment, in the
should ultimately find that he did make and utter the wo
in the indictment. Logically it is perhaps true that the
or one way, at least, would be to proceed to prove what
and said as charged in the indictment. But the order o
is within the discretion of the court, and the Court usua
the party who has the burden of putting on the testimo
his own order, and will not interfere with it unless the
good reason for it. I see no reason for interfering wit
in which the District Attorney is proceeding, but I ask
bear in mind the caution which I have given you, and w
have occasion, perhaps, to repeat later in the trial. I wil
an exception.

Mr. Stedman: Exception.

The Witness: (Continuing:) He said, "I approved o
form at the time of its adoption in spirit and in
201 He went on to say that he still approved of the
in that platform, but in the light of recent events
a restatement of the platform. He said, parenthetical
must be very careful as to what he says—what his word
cause, he added, "in a world that is fighting to make—in
is fighting to make the world safe for democracy, one m
careful of what one says if one wants to keep out of prison
him then what he meant by that phrase, in the ligh
events. He said, "Well, for instance, the Russian situat
we talked for a moment of the Bolshevik movement in
he indicated that the success of that movement was an in
persons of similar ideas in this country, and that that n
this, by the way, was just indication——

Mr. Stedman: If the Court please, I wish to object to "i

The Court: State, if you can, what language he used,
stance of it.

The Witness: As I recall, his words concerning the
restate the aims of the anti-war platform or St. Louis p
the Socialist Party,—he pointed out that the success of th
movement in Russia was something on which to model a
ideals for this country—the ideals espoused by the Sociali

Q. Did you make any notes of your conversatio
202 Debs?

A. Yes, sir. I have preserved all the notes. T
not cover all that he said.

The Court: Was your conversation with him just be
after he made the speech referred to.

The Witness: It was about one hour before.

Q. Will you refer to your notes and refresh your me
if there is anything further that Mr. Debs said at that ti
have overlooked?

A. When I asked him about the Russian situation, he said Russian situation——

Mr. Stedman: I would like to examine the witness on his m randum before he reads from it. It is apparent that he is no freshing his recollection, but reading literally from somethin has written.

The Court: I will examine him on the memorandum. When those made, Mr. Miller?

The Witness: At the time of my conversation with Mr. Deb

The Court: And were made by you?

The Witness: Yes, sir.

The Court: They are the self-same notes you made then?

The Witness: Yes, sir.

The Court: You may examine them and refresh your recollec and then testify. You need not read from them.

The Witness: I was not reading from them.

203 The Court: All right.

Mr. Stedman: Exception.

The Court: You may state, now, anything further, after ha refreshed your recollection.

The Witness: He stated that Russian events had changed situation infinitely for the better.

Mr. Stedman: If your Honor please, it is obvious from obser the witness that he is simply reading it and then reciting his r lection of what he has read. In other words, he bows his head, it to himself, and then recites it.

Mr. Wertz: That is perfectly proper.

Mr. Stedman: No; it is not an independent recollection of the versation. It is a recollection based upon one second's time, or maybe, reading the document and starting to recite it.

The Court: Well, I don't think we will have any argument a it. You may refresh your recollection and proceed to tell what recollection is.

The Witness: I referred to the arrest and conviction of ce Socialists, and mentioned specifically A. L. Hitchcock, of Clevel and Mrs. Rose Pastor Stokes, who was tried at Kansas City. In swer to that he said that the Socialist movement is growing rapidly than ever before. He said that. He said, "As result of Hitchcock's conviction, there will be twenty-five thousand Soc votes added in the State of Ohio. As a result of Mrs.

204 Pastor Stokes' conviction, that will mean one hundred t sand Socialist votes the country over." At that time s body took his arm to take him to an automobile to go to the and the conversation ended.

Q. Now, referring to Government's Exhibit 2, are you fam with that document?

A. Yes, sir. It is a referendum ballot distributed to——

Mr. Stedman: I am not objecting to him stating it for ident tion, but I think he ought to show his knowledge of distributio he knows.

A. (Continuing:) It is a referendum ballot distributed to members of Socialist locals following the Socialist convention in St. Louis in April of 1917. It contains——

Mr. Stedman: That is objected to. And, really, whether it is distributed is not material. The material thing is what was said between this man and Mr. Debs.

The Court: No; I do not think the range of testimony is that narrow. They discussed something and it was referred to in certain language, in certain statements made. I am of the opinion that so far as the entire conversation is material, that makes material the document referred to in the conversation; and the question of identification of the document—the platform, so-called, adopted at a certain convention in St. Louis at some time, was the language of the witness in describing that which he referred to. Now, I think that if he can identify the document that was discussed between him and Mr. Debs at that time, he may do so. That is the point
205 of the testimony.

Mr. Stedman: The evidence so far as reference to this instrument is concerned is that a report, a majority report or minority report was sent out for distribution. There is no testimony that a majority report or a minority report, or the circulation of it, took place in the conversation between Mr. Debs and this witness. What he does ask him is something in reference to what is characterized as an anti-war proclamation, or war program adopted at St. Louis.

The Court: The only materiality of the testimony is for the purpose of identifying the particular document they referred to as the platform, or the anti-war program, which he has referred to in his conversation. Testimony tending to identify the document referred to in the conversation will be received. Beyond that, as to this referendum and circulation,—that I do not regard as material or of any aid to the Court.

Mr. Stedman: Exception.

Q. That part of the document which is marked "Majority Report" was the document which you discussed with Mr. Debs at Canton as being the St. Louis anti-war platform?

Mr. Stedman: That is objected to as calling for his conclusions as to what he discussed in his mind, and it is incompetent to characterize what is in the mind of the defendant. That is a question for the jury.

The Court: Objection overruled.

Mr. Stedman: Exception.

206 A. The majority report herein contained is the report that I had in mind when I talked to Mr. Debs in the lobby of the Courtland Hotel at Canton.

Q. You may state whether or not that was what you discussed—that platform known as the majority report—with Mr. Debs when you testified you understood by newspaper reports that he changed his attitude on that document?

A. That is the report that I discussed with him.

Q. You may state whether or not that is the same document that is contained in Government's Exhibit No. 1, pages 570, 571 and 572?

Mr. Stedman: Objected to as incompetent and immaterial. It is a matter of comparison shown by the document.

The Court: Did you examine the two documents to determine whether they were the same or not?

The Witness: Yes, sir.

The Court: He may answer the question.

A. They are the same.

Mr. Stedman: I want to object to it, and I want to object to the interrogatories by the Court.

The Court: You may have your exception.

Mr. Stedman: Exception.

Q. Did Debs say anything further in regard to the restatement of the war aims set out in this St. Louis anti-war platform, at this conversation in addition to what you have testified to?

A. I don't recall anything further.

Q. Where did Debs speak from at this park?

207 A. He spoke from a band stand in this Nimisila park. It was on Sunday, the sixteenth of June.

Q. Describe to the jury the decorations that were on the band stand from which he spoke, if there were any decorations.

Mr. Stedman: I want to object to that, unless it is shown that Mr. Debs had control of the park decorations.

The Court: Overruled.

Mr. Stedman: Exception.

A. I recall no decorations whatsoever.

Q. Did you observe his manner when reference was made to the part of the United States in this war, in making his address?

Mr. Stedman: I want to object to that unless it is put more definitely. Furthermore, it is leading.

(Objection sustained.)

Cross-examination by Mr. Stedman:

I have been two years on the Plain Dealer, one year on the Ohio State Journal, and there was a lapse of about four years in advertising copywriting and one year in school teaching. Prior to that I was two years in newspaper work, newswriting. I am familiar with the Socialist movement to some extent. The International Socialist Review is published, as I recall it, by a gentleman named Kerr, in Chicago.

Q. Don't you know that the Socialist Party has nothing to — with that magazine? That as a matter of fact, there is hostility between the editorial policy of that magazine and party?

208 A. I do know that, yes, sir. I would not regard the International Review in any sense as an official publication, or representing either the policy or the party. That is document No. 1 which has been referred to here. When I met Mr. Debs there was no specific reference to the May, 1917, edition of the International Socialist Review.

Q. And nothing was said in the conversation by which that part of that magazine was identified, was there?

A. Yes, sir. We discussed the copy of the platform. We discussed the platform which is copied in there——

Mr. Wertz: Object.

Q. Now, Mr. Witness, we misunderstood each other. I asked or intended to ask you whether anything was said referring to or identifying this magazine, or article in this magazine, bearing in mind the separation between the platform in itself and this particular document.

A. The name of the magazine, sir, was not mentioned. The St. Louis anti-war platform was mentioned. I have seen a statement of the St. Louis anti-war proclamation. I have not seen the official—the original copy of that, but I have seen a number of printed copies of it all the same. I haven't any on my person. I imagine I could produce one from nearly any good newspaper library, or any good public library.

Q. Was there a platform submitted at St. Louis, do you know?

A. It was not called, as I remember the affair, a platform, but a proclamation—an anti-war proclamation and program. I am quite certain of that. I have facilities for looking it up and will
209 do so when I leave the witness stand.

Q. Referring to Exhibit No. 2 did you have that document with you in your possession?

A. Only mentally. This document was not in my presence, not there with me.

Q. There was nothing said about referendum and reports, was there?

A. Yes, sir.

Q. What was said in reference to a referendum?

A. I told Mr. Debs that I had seen in the newspapers statements to the effect that he had backed down from what was known as the majority report adopted at St. Louis, a few days after we had entered the war. He said, "I approved of that report in spirit and in substance at the time of its adoption, and I approve of it now; but I favor a restatement of some of the aims."

Q. Who was present at that conversation?

A. One or two men whom I had never met before, and whom I do not now recall, and probably cannot recognize, were present. Also in the hotel lobby, close by, was Mr. Sawken, of Cleveland, whom I had met in newspaper work here, and whom I met at that time in the lobby of the hotel Courtland. Also there was present a man introduced to me as J. J. Fried, as I recall it,—introduced as a Socialist of Cleveland, who seemed to be on the reception com-

mittee appointed to meet Mr. Debs. Mr. Fried and the couple of other gentlemen were quite close. The conversation didn't last very long; just a few minutes; just as they were starting to
210 go to the park.

Q. Did not Mr. Debs say to you, in discussing the majority report, "I approved of it at the time of its adoption in substance?"

A. And in spirit.

Q. And in spirit. But, "I believe now that in view of the Russian situation, it should be modified"?

A. His exact words, as I recall them,—I used the word "repudiate". He said, "I do not repudiate it now, but I do favor a restatement of it." A restatement of the majority report, in view of the Russian situation.

Q. Did you ask him in what particular he would modify, change, or restate the St. Louis program?

A. I did, and he said, "In the light of the Russian situation I would modify it. In the light of the Russian situation, which has changed infinitely for the better, I would modify it."

Mr. Stedman: I move that all that answer be stri-ken out.

The Court: What part of it do you want?

Mr. Stedman: I want to know whether Mr. Debs particularized, or said in what particular he would modify the St. Louis program?

The Witness: Why, I haven't quite understood you. He didn't go into any detail. That program was a rather long statement. It analyzes economic reasons and goes into the reasons alleged for our entrance into the war, and covers some distance in print.
211 The conversation was not so hurried as it was brief. It lasted between five and eight minutes. I did not mention any paper specifically. There was no reference to the Plain Dealer; there was no reference by language to the International Socialist Review of May, 1917; there was reference to the majority report, there was no reference to the minority report. I did not ask him whether he was in St. Louis at the time it was adopted. I only know by hearsay. I can only tell you what another Socialist told me.

Q. Coming back to Exhibit 2, you did not, then, in your conversation, refer to the contents of that exhibit? To distinguish in your mind, you referred to a majority report, or anti-war proclamation, but you didn't refer to that document?

A. Yes, I did refer to it in bringing it first to his attention so that each one of us would know exactly what we were discussing, and know that we were discussing the same thing. I referred to the majority report adopted at St. Louis which opposed our entrance into the war, and opposed conscription, and so forth, taking some of the so-called pledges in the report and restating them, so that he would know what I meant, and I would know what he meant while we talked. There was only reference to the substance and contents of the majority report; not at all to the ballot or to the minority report. When I went there I was employed by the Cleve-
212 land Plain Dealer. At that time I had absolutely no idea that I would be a witness. I had no idea there would be a trial.

213 Thereupon, the Government further to maintain the issu
on its part to be maintained, called as a witness, VIRG
STEINER, who being first duly sworn, testified as follows:

Direct examination by Mr. Wertz:

My name is Virgil Steiner; I am supervisor of stores at the He
cules Motor Company, Canton; I have been there thirteen month
for one year prior to that time I was employed as stenographer a
clerk at the United Furnace Company; for one year prior to that
was employed as a stenographer at the Repository Printing Co
pany, Canton. That was immediately after my graduation fro
high school. I was present at Nimisila park at Canton, on Ju
16th, when an address was made there by Mr. Debs, the defenda
in this case. I was present as stenographer in the service of t
United States Department of Justice. I took the address of M
Debs at that time. I have the original notes here that I took. T
notes contain everything that I took that Mr. Debs said. They
not contain all he said. There were some few sentences which
was unable to get, but when I was not able to get what he said,
omitted all the whole sentence. Therefore, all that I have here
contained in the indictment, but I do not have anything here
did not say. So far as I got it it is correct but there are some thin
that he said that were omitted from my statement.

The Court: You transcribed those notes?
The Witness: Yes, sir.
214 The Court: You transcribed them correctly.
The Witness: Yes, sir.

Mr. Stedman: I wish to make an objection to the evidence of th
witness on the ground, as shown by the examination of the witne
that there is a variance between the speech set forth in the indictme
and the speech as delivered.

Mr. Wertz: I do not think, your Honor, that it would be impro
for me to say at this time that we have under subpœna the steno
rapher employed by the Socialists themselves who will be put
the witness stand following this witness.

The Court: I do not believe it will help either side, or the jur
to have a document of great length read over repeatedly in the
presence. Now, I will give you the benefit of a ruling on your o
jection, Mr. Stedman. I am of the opinion that the Government
not required to prove, under the allegations of the indictment, t
exact language charged in the indictment. It will be sufficient
the Government proves in substance and in legal tenor and effe
the language as charged in the indictment. It is not necessary,
law, that there should be proved all the language charged in t
indictment. It will be sufficient if there is enough of it proved
substance and legal tenor and effect, if the jury shall find beyon
a reasonable doubt that it was said, and satisfied beyond a reasonb
doubt, the elements of the crime charged. Now, that add
215 tional words were used in the speech other than that charg
in the indictment does not, in the opinion of the Court, und

that ruling constitute a variance between the charge and the proof. Of course, the additional language used, if it should be proved that additional language was used, is admissible in evidence and will be weighed by the jury. I will therefore overrule your objection and you may have your exception.

Mr. Stedman: Exception.

Q. Have you transcribed all your notes contained in your book?
A. No, sir; I have not.

The Court: Show him the transcript and let him identify it.

(The witness identifies paper marked for identification Government's Exhibit No. 7.)

Mr. Wertz: May we have it, your Honor, that Mr. Steiner read from his notes "as follows"?

The Court: Yes; and the record will show that this was "as follows".

The transcript of the speech of Mr. Debs, taken by the witness at Canton, Ohio, June 16, 1918, is as follows:—

"Comrades, Friends and Fellow-Workers:—

"For this very cordial greeting, this very hearty reception, I thank you all with the fullest appreciation of your interest in your devotion to the cause for which I am to speak to you this afternoon. To speak for labor, to plead the cause of the men and women and children who toil, to serve the working class, has always been to
216 me a high privilege, a duty of love.

I have just returned from a visit from yonder (pointing to workhouse) where three of our most loyal comrades are paying the penalty for their devotion to the cause of the working class. They have come to realize, as many of us have, that it is extremely dangerous to exercise the constitutional right of free speech in a country fighting to make democracy safe for the world. I realize in speaking to you this afternoon that there are certain limitations placed upon the right of free speech. I must be extremely careful, prudent, as to what I say, and even more careful and prudent as to how I say it. I may not be able to say all I think, but I am not going to say anything I do not think. And I would rather a thousand times be a free soul in jail than a sycophant or coward on the streets. They may put those boys in jail and some of the rest of us in jail, but they cannot put the Socialist movement in jail. Those prison bars separate their bodies from ours, but their souls are here this afternoon. They are simply paying the penalty all men have paid in all the ages of history for standing erect and seeking to pave the way for better conditions for mankind.

If it had not been for the men and women who, in the past have had the moral courage to go to jail, we would still be in the jungles.

This assembly is exceedingly good to look upon. I wish it were possible to give you what you are giving me this afternoon.
217 What I say here amounts to but little. What I see here is exceedingly important. You workers here in Ohio, enlisted

in the greatest cause ever organized in the interests of your class,
making history today in the face of threatening trouble of all kin
history that is going to be read with profound interest by the com
generation. There is but one thing that you have to be concern
about, and that is that you keep four-square with the principles
the international Socialist movement. It is only when you begin
compromise that trouble begins. So far as I am concerned, it d
not matter what others may say or think or do, as long as I am s
that I am right with myself and the cause.

There are so many who seek refuge in the popular side of a gr
question. I am not of that number. As a Socialist I have long si
learned how to stand alone.

For the last month I have been traveling over the Hoosier st
and let me say that in all my connections with the Socialistic mo
ment, I have never seen such enthusiasm, such unity of moveme
such a promising outlook as there is today. Notwithstanding
statement published by the capitalist press that our leaders had
serted, I wish to say for myself I never had much faith in lead
anyway. I am willing to be charged with almost anything rat
than be charged with being a leader. I am suspicious of leade
especially all the intellectual file. Give me the rank and file ev
day in the week. Go to the City of Washington and cons
218 the files there and you will find that the corporation lawy
members of congress and misrepresentatives of the masse
all of them claim that they have risen from the ranks. I am so g
that I cannot make that claim for myself. When I rise, it will
with the ranks and not from the ranks.

When I came away from Indiana, the comrades said, "When y
cross the line, tell those comrades that we are on duty and doing du
and are going to make a record this fall that will be heard arou
the world.

The Socialists of Ohio are very much alive this year. The pa
has been 'killed' this year, which accounts for its extra ordina
activity. This naturally helps a party. The oftener it is killed, t
more energetic and more powerful they become. We have be
reading capitalistic newspapers lately, and what a capacity they ha
for lying. They know all about the Socialistic party except what
true. Only the other day, they took an article that I had writt
and most of you have read, and made it appear that I had underge
a marvelous transformation. I had suddenly come to my senses, h
ceased to be a wicked Socialist and had become a respectable S
cialist, a patriotic Socialist—as if I had ever been anything el
What was the purpose of this deliberate misrepresentation? It
so self-evident that it was against itself. It was to sow dissatisfacti
among our ranks, so that we would pit ourselves against each oth
to our mutual undoing. But Socialists were not born yesterd
They know how to read capitalists' newspapers, and to believe
actly the opposite of what they read.

219 Why should a Socialist be discouraged on the eve of t
greatest triumph of all the history of the Socialist movemen
It is true that there are anxious trying days for us all, testing the

who are upholding the banner of the working class in the greatest struggle the world has ever known against the exploiters of the world; a time in which the weak, the cowardly, will falter and fail and desert. They lack the fiber to endure the revolutionary test. They fall away. They disappear as if they had never been.

On the other hand, they who are animated with the unconquerable spirit of the Social revolution, they who have the moral courage to stand erect, to assert their convictions, to stand by them, to go to jail or to hell for them—they are writing their names in this crucial hour, they are writing their names in fadeless letters in the history of mankind. Those boys over yonder, those comrades of ours—and how I love them—aye, they are our younger brothers, their names are seared in our souls.

I am proud of them. They are there for us and we are here for them. Their lips, though temporarily mute, are more eloquent than ever before, and their voices, though silent, are heard around the world.

Are we opposed to Prussian militarism? Why, we have been fighting it since the day the Socialistic movement was born and we are going to continue to fight it today and until it is wiped from the face of the earth. Between us there is no truce, no compromise, but before I proceed along this line, let me recall a little history in which we are all interested.

In 1869, that grand old warrior of the Socialistic revolution, the elder Liebknecht, was arrested and sent to prison for three months because of his war as a Socialist on the Kaiser and the Junkers that ruled Germany. In the meantime, the Franco-Prussian war broke out. Liebknecht and Badel were the Socialist members of the Reichtag. They were the only two to protest against the taking of Alsace-Lorraine from France and giving it to Germany. They were taken from the Reichtag and sent to prison for two years. For four years previous to this they had been fighting the Kaiser and the Junkers of Germany. They have fought them from that day to this. Thousands of them have languished in the prisons for war on the ruling classes of that country.

Let us come down the line. At the close of Roosevelt's second term as President, he went over to Africa to make war on some of his ancestors. You remember at the close of his expedition, he visited all the capitals of Europe and he was wined, dined, dignified and glorified by the Kaiser, kings, and czars of the old world. He visited Potsdam while the Kaiser was there and, according to the account published in the American newspapers, he and the Kaiser were soon on the most intimate terms. They were hilariously intimate with each other. They slapped each other on the back. After Roosevelt had effused over the German troops, he remarked to the Kaiser, 'If I had that kind of an army, I would conquer the world.'

He knew the Kaiser as well as he knows him now and yet he permitted himself to be entertained by the Beast of Berlin.

He was cheek by jowl with the Beast of Berlin. And while he was being entertained by the Beast of Berlin, that same Kaiser was putting Socialist leaders in jail for fighting Kaiserism. Roose-

velt was a guest of honor of the Kaiser while the Socialists w
jail for fighting the Kaiser. Who was fighting against the K
Roosevelt? No. It was the Socialists.

When the newspapers reported that Kaiser Wilhelm and Ex
dent Theodore Roosevelt recognized each other at sight, at t
touch, they made admission that they are fatal to the champ
democracy. They admitted that their ideas and ideals were
the same. While Theodore Roosevelt, who is now the great
pion of democracy, the arch foe of autocracy, what business
as the guest of honor of the Kaiser and was it not pretty
proof that he was a Kaiser at heart? After being the guest
Kaiser, he wants us to send 10,000,000 men to murder the
to murder his former friend and pal. And yet he is the
and we are the traitors. I challenge you to find any Socialis
was ever the guest of the Kaiser, except as one of his prison w

In 1902, Prince Henry paid a visit to this country. Do y
member him? I do. Exceedingly well. Prince Henry
brother of King Wilhelm. He is an autocrat; an aristo
Junker of Junker. He came over in 1902 as the re
222 tative of Kaiser Wilhelm. He was received by Congr
several State Legislatures, among others the State Legi
of Massachusetts, then in session. He was invited there by the
lers of the legislature. And when Prince Henry came there
was one member who kept his self-respect, put on his hat,
Prince Henry walked in, he walked out, and that man was Ja
Carey, and all the rest of the representatives joined in doing
in the most servile spirit to that high representative of aut
and Carey was the only one who left that meeting.

You will remember history along the same line. I have a
recollection. It occurred just 15 years ago. When Prince
came here all of our plutocracy, living along Fifth Avenue,
their palace doors wide open and received him with open
They got down on their stomachs and vied with each other
the boots of Prince Henry, the representative of the Beast of

Do you imagine for one moment that all the plutocra
Junkers are all in Germany; we have them here in our own c
and these want to keep our eyes focused upon the Junkers i
many so we won't see those within our own border. I ha
earthly use for the Junkers of Germany and not one particl
use for the Junkers in the United States.

They tell us that we live in a great republic. Our institutio
democratic. We are a free people. This is too much, eve
joke. It is not a subject for levity, it is an exceedingl
223 ous matter.

To whom do the Wall Street Junkers in our coun
whom do they marry their daughters? After they have wru
hundreds of millions from your sweat and from your life bl
times of war as well as peace, they invest these millions in th
of broken-down aristocrats and to buy counts of no-account
they satisfied to wed their daughters to honest workmen? T
democrats? They scour the markets of Europe for those wh

titles and nothing else, and they swap their titles for money. And they swap their matrimony for more money, while the plutocrats in this country scan the country with their magnifying glasses for evidence of disloyalty. Patriotism is the last refuge of scoundrels. It has been the tyrant who wrapped himself in a cloak of religion or patriotism, or both. They would have you believe that the Socialist party consists in the main of disloyalists and traitors. It is true in a certain sense. We are disloyalists and traitors to the real traitors of this nation. And the gang on the Pacific Coast are trying to hang Tom Mooney in spite of the protests of the civilized world.

I know Tom Mooney. He is an absolutely honest, innocent man. He had no more to do with the crime with which he was charged than I have and if he ought to go to the gallows, so ought I. What is he guilty of? I will tell you. For years he has been fighting the battles of the working class out on the Pacific Coast. He continued loyally in the service of the working class. They said, 'He cannot be bought; he refuses to be bribed. Therefore, he must be murdered.'

Let us review another bit of history. Do you remember when Francis J. Heney was shot down in the courtrooms of San Francisco? A committee of high-binders, composed largely of members of the Chamber of Commerce, absolutely controlled the courts of San Francisco. They did not hesitate to commit murder to further their murderous regime. Tom Mooney was the only representative of the working class that they could not control. They owned the railways; they controlled the industries; they were the rulers and from them there was no appeal. And they were as infamous as any rulers that ruled in Germany or any other country. At last a Grand Jury was found that could indict them, and Francis J. Heney, who had been selected by the National Administration to assist in the prosecution, this same gang controlled by the Chamber of Commerce, this gang hired a murderer to shoot Francis J. Heney down in the courtroom and he did. Francis J. Heney happened to live, but that was no fault of theirs. The same gang are also for the execution of Tom Mooney. Every solitary one of them claims to be an arch-patriot. Every one of them claims he is trying to make democracy safe in this world. What humbug! What rot! What false pretense! The patriots are the men who have the courage to stand face to face and fight them, and they call them disloyalists and traitors, and if this be true, I want to take my place side by side with the traitors in this country.

Why the other day they sent a woman to Wichita Penitentiary for ten years. Just think of sentencing a woman to the penitentiary for talking. The United States under the rule of the plutocrats is the only country which would send a woman to the penitentiary for ten years for exercising the right to free speech. If this be treason, let them make the most of it. Let me review another bit of history. I have known this woman for ten years. Personally I know her as if she were my own younger sister. She is a woman of absolute integrity. She is a woman of courage. She is a woman of unimpeachable loyalty to the Socialist movement. She

went out into Dakota and made her speech, followed by plain
men in the service of the Government, intent upon encompass
arrest, prosecuted and convicted. She made a certain spee
that speech was deliberately misrepresented for the purpose o
ing her conviction. The only testimony was that of a hired
And thirty farmers who went to Bismarck to testify in he
the judge refused to allow to testify. This would seem incre
me if I had not some experience of my own with a Federa
Who appoints the Federal courts? The people? Every solit
of them holds his position through influence and power of
tion capital. And when they go to the bench, they go there
serve the people, but to serve the interests who sent them. Th
day, by a vote of five to four, they declared the Child Lab
unconstitutional; a law secured after twenty years of educati
agitation by all kinds of people, and yet by a majo
226 one, the Supreme Court, a body of corporation lawye
just one solitary exception, wiped it from the Statute
so that we may still continue to grind the blood of little c
into profit for the junkers of Wall Street, and this in a count
is now fighting to make democracy safe for the world. These
palatable truths to them. And they do not want you to hea
and that is why they brand us as traitors and disloyalists.
were not traitors to the people, we would be eminently resp
citizens and ride in limousines. It is precisely because we
loyal to the traitors that we are not disloyal to the people
country.

You have heard of Scott Nearing. He is the greatest tea
the United States. He was in the University of Pennsylvani
the Board of Trustees, composed of great capitalists, found
teaching true economics to the students of that university.
same forces said of a Judean carpenter nineteen centuri
They said of Jesus Christ, who was a workman and teache
said, 'He is preaching a false religion,' and his lineal desc
said, 'He is preaching false economics.' 'We cannot crucify
we will starve him to death. We will make it impossible f
to get a job. He is a dangerous man. He is teaching the
The truth is always unpalatable to these plutocrats, who mak
living by the sweat of the working class.

They are afraid that we might contaminate you.
227 their wards. They are their own guardians. They m
that our vicious doctrines do not reach your ears.
mistake they make. We ought to pass a resolution of than
send it to them. These are the people who want to seize our
And woe to the man who reads the Socialistic literature.
goner. I have known of a thousand experiments but I have
known of a single experiment to escape it. Let me tell you
John Werk, of Milwaukee. The capitalists of Milwaukee
John, 'We have got to find out about Socialism. John, you
bright young lawyer; we want you to find out all about S
literature.' After reading the Socialist volume, John was
fledged Socialist and has been fighting for us ever since.

How short-sighted the ruling class is. The exploiter cannot see beyond the end of his nose. He has just been cunning enough to know what graft is and where it is but he has no vision. You know this is a great throbbing world that speaks out in all directions. Look at Rockefeller. Every move he makes hastens the coming of his doom. Every time the capitalist class tries to hinder the cause of Socialism they hurt themselves. Every time they strangle a Socialist newspaper they add a thousand voices to those which are aiding Socialism. The Socialist has a great idea. An expanding philosophy. It is spreading over the face of the earth. It is useless to resist it as it is to resist the rising sunrise. Can you see it? If you cannot you are lacking in vision, in understanding. What
228 a privilege it is to serve it. I have regretted a thousand times I can do so little for the movement that has done so much for me. The little that I am, the little that I am hoping to be, is due wholly to the Socialist movement. It gave me my ideas and my ideals, and I would not exchange one of them for all the Rockefeller blood-stained dollars. It taught me how to serve; a lesson to me of priceless value. It taught me the ecstacy of the hand-clasp of the comrade. It made it possible for me to get in touch with you, to multiply myself over and over again; to open the avenue to spread out the glorious vistas; to know that I am kin with all that throbs that become class conscious. Every man who toils, every one of them is my comrade. To serve them is the highest duty of my life. And in their service I can feel myself expanding. I rise to the stature of a man. Yes, my heart is attuned to yours. All of our hearts are melted into one great heart which throbs to the response of the people.

Here I hear your heart beats responsive to the Bolsheviki of Russia. (Applause.) Yes, those heroic men and women, those unconquerable comrades, who have by their sacrifice added fresh lustre to the international movement. Those Russian comrades who have made greater sacrifices, who have suffered more, who have shed more heroic blood than any like number of men and women anywhere else on earth. They have led the first real convention of any democracy that ever drew breath. The first act of that memorable revolution was to proclaim a state of peace with an appeal not to the kings, not to the rulers, but an appeal to the people of all nations.
229 They are the very breath of democracy; the quintessence of freedom. They made their appeal to the people of all nations, the Allies as well as the Central Powers, to send representatives to lay down terms of a peace that should be lasting. Here was a fine opportunity to strike a blow to make democracy safe to the world. Was there any response to that noble appeal? And here let me say that appeal will be written in letters of gold in the history of the world. While it has been charged that the leaders made a traitorous peace with Germany, let us consider this proposition briefly. At the time of the revolution, Russia had lost 4,000,000 of her soldiers. She was absolutely bankrupt. Her soldiers were without arms. This was what was bequeathed to the revolution by the Czar. For this

condition, Leon Trotski was not responsible nor was the
movement, but the Czar was.

When Leon Trotski came into power, he found the sec
made between the French government and the British g
and the Italian government which was to divide the terri
Central Powers if the Allies were victorious, and these sec
have not been repudiated up to this time. Very little ha
about them in the American newspapers. This shows th
pose of the Allies is exactly the purpose of the Central Po

Wars have been waged for conquests, for plunder, an
feudal ages along the Rhine, the feudal lords made war
other. They wanted to enlarge their domains, to inc
power and their wealth and so they declared war
230 other. But they did not go to war any more tha
Street Junkers go to war. Their predecessors d
wars, but their miserable serfs fought the wars. The ser
that it was their patriotic duty to fall upon one another, t
upon one another. And that is war in a nut shell. T
class has alway brought a war and the subject class has
battle. The master class has had all to gain and nothi
and the subject class has had all to lose and nothing to g
have always taught you that it is your patriotic duty to go
slaughter yourselves at their command. You have ne
voice in the war. The working class who make the sacr
shed the blood have never yet had a voice in declaring war.
ing class has always made the war and made the peace.

"Yours not to question why,
Yours but to do and die."

Another bit of history I want to review is that of R
Stokes, another inspiring comrade. She had her millions
Her devotion to the cause is without all consideration of
or economic view. She went out to render service to the
they sent her to the penitentiary for ten years. What has
Nothing more than I have said here this afternoon. I w
that if Rose Pastor Stokes is guilty, so am I. If she shou
to the penitentiary for ten years, so ought I. What did she
said that a government could not serve both the profiteer
employees of the profiteers. Roosevelt has said a
231 times more in his paper, the Kansas City Star.
do everything possible to discredit Wilson's admi
in order to give his party credit. The Republican and D
partes are all patriots this fall and they are going to combi
vent the election of any disloyal Socialists. Do you know
ference between them? One is in, the other is out. That
difference.

Rose Pastor Stokes never said a word she did not have
utter, but her message opened the eyes of the people. Tha
suppressed. That voice must be silenced. Her trial in a
court was very farci-al. What chance had she in a corpora
with a put-up jury and a corporation tool on the bench?

If the war was over tomorrow, all the prison doors woul
open. They were just to silence these voices during the war,
the cases will be pending in court for months, perhaps years.
truth will make the people free and the truth must not be perm
to reach the people. The truth has always been dangerous t
rule of the rogue, to the exploiters. And every time they mak
attempt (to attack Socialism) they have ten thousand voices
claiming that Socialism must live.

(Gets a glass of water from one on the platform.)

Thank you, comrade. How good the touch of the hand of a
rade is and a sip of water furnished by a comrade! and how go
is to look into your faces this afternoon! You are really good
ing to me this afternoon, I assure you. Your tribe ha
232 creased wonderfully since I came here. You used to
few and so far between. When you struck a place the
thing to do was to try to find a Socialist. If he happened to b
only one in town, he now holds a place of honor in the hearts
now living. Now you can't throw a stone in the dark without hi
a Socialist.

I went to Warren some years ago. It happened the year
dent McKinley was assassinated. In common with all others,
plored that tragic event. There was not a Socialist who would
been guilty of that crime. We do not attack individuals. We
no fight with individuals. We are capable of pitying those who
us. We do not hate them. We know better. We would hand
a cup of water if they needed it. There is not any room in our h
for hate, except for a system, a system in which it is impossibl
one man to achieve a tremendous fortune while millions and mil
struggle for the bare necessities of life. When McKinley was
inated the ministers met at Portsmouth and passed a resolution
Debs was responsible for the death of McKinley. So all those
isters met and said I was not permitted to come into the city
went there soon after, however.

At Warren I was prepared to speak at the hall. I arrived i
evening and was no more than registered when I was ordere
leave the town, as I was not to be permitted to speak there. I
word to the mayor that I would speak at Warren or I would
Warren in a box. I went to the hall and the G. A. R. had a sp
meeting. In the full uniform they sat in the front seat
233 went to the hall and made my speech. I told them who
responsible for the assassination. As long as there is mi
caused by robbery at the bottom, there will be assassination a
top. Well, I made the speech that night. I was back there the
day and the whole population of Warren was there to meet me.

They who have had the courage to take their places at the f
they who have been true enough to speak the truth that is in
who have espoused the cause of the suffering, struggling poor,
have upheld the cause of righteousness—they have made the his
They have paved the way to civilization. There are so many
remain on the popular side. They lack the fibre that endures.

are to be pitied and not treated with contempt. Those who have lived and endured that we should live on the earth today, had their bones broken on the wheel and were burned at the stake. We are under obligation to them because of what they suffered for us, and the only way we can cancel that obligation is by doing and seeking today for the interest of everyone who needs us.

Every Socialist on the face of the earth is animated by the same principles. Everywhere they have the same noble idea, everywhere they are calling one another 'comrade', the noblest word that springs from the heart and soul of unity. The word 'comrade' is getting us into closer touch all along the battle line. They are waging the war of the working class against the ruling class of the world.
234 They conquer difficulties; they grow stronger through them all.

The heart of the international Socialist never beats a retreat. They are pressing forward, here, there, everywhere, in all the zones that girdle this globe. These workers, these class-conscious workers, these children of honest toil are wiping out the boundary lines everywhere. They are proclaiming the glad tidings of the coming emancipation. Everywhere they are having their hearts attuned to the sacred cause; everywhere they are moving toward democracy, moving toward the sunrise, their faces aglow with the light of coming day. These are the men who must guide us in the greatest crisis the world has ever known. They are making history. They are bound upon the emancipating of the human race.

They have been sufficient to themselves, pressing forward toward the heights. Do you wish to hasten the coming day? Join the Socialist party. Do not wait for the morrow. Come now. Enroll your name. Take your place where you belong. You cannot do your duty by proxy. You have got to do it yourself. You will have no occasion to blush. You will know what it is to be a man or woman. You will lose nothing. You will gain everything. You are very apt to find something. You need to know that you are fit for something better than slavery and cannon fodder. You need to know that you are not created to work and to produce and to impoverish yourself. You need to know that you have a soul to develop. You need to know that it is for you to know something about literature and about science and about art. You need
235 to get in touch with your comrades. You need to become conscious of your own interests. You need to know that as long as you are unorganized industrially and content you will remain exactly where you are. You will be exploited. You will have to beg for a job and you will get just enough to keep you in working order. And you will be looked down upon in contempt. If you would be respected you will have to begin by respecting yourself. I would not want to be in the predicament that poor fellow was in who heard a Socialist speech the other day and thought he ought to be a Socialist. The argument was invincible.

'Well, all he said was true.' But he finally concluded he might lose his job. 'I guess I can't afford to take the chance.' That night he slept alone. He was in trouble with his conscience. Such men

always are. A Socialist always goes to bed with his self-respect and he can look the whole face in the world (the crowd laughs at the unconscious inversion of words) without a tremor.

The poor fellow had a terrible dream and bounded from his bed and said: 'My God, there is nobody in this room!' and he was absolutely right. No wonder he was terrorstricken. How would you like to sleep in a room with nobody in it?

There is a great deal of hope for our comrades, Wagenknecht, Ruthenberg and Baker. Anybody can be nobody, but it takes a man to be somebody. Turn your back upon that corrupt Republican party and that still more corrupt Democratic party the gold-dust twins of the ruling class. Get into a minority party that
236 fights for a cause. Make that change. It will be the most important change you ever made in your life. You will thank me for having made the suggestion. It was a day of days for me. I passed from darkness to light.

Great, seething, throbbing Russia was transferred from a land of seething darkness to a land of living light. There is something splendid in the prompting of the heart to be true to yourself.

You are in the crucible today, Mr. Socialist. You are going to be tried, to what extent, no one knows. If you are of weak fibre, that weakness will be found out. We will have to bid good-bye to you. You are not of the stuff of which revolutionists are made. The intellectuals, a good many of them are all gone. That is no loss to ourselves and no gain to others. In discussing intellectuals, let us answer this question: They have been with us for a long while. What will become of the rank and file as soon as the shep-*ards* cease to guide us? 'You are my sheep.' In other words, you are my mutton. They are ruled through the intellectuals in the capitalist parties. If you are in the Republican or Democratic party, you will not be called upon to think. They ride in carriages; you tramp in the mud. The capitalist system affects to have great regard for intellect. We used to *to* tell the capitalists sometime ago, 'The working-class will rule.' We used to say, 'The people ought to own the railroads.' We advocated that twenty years ago. You have got to have brains to operate railroads—and the other day McAdoo fired
237 all the brains. Have you noticed any change since the brains have gone? The railroads are now operated by hand.

This determines how invaluable is the quality of capitalist brains. They have always given themselves credit for having superior brains. They have had all the brains and all the wealth. As to brain capacity, they are the most woeful people on the face of the earth. But they know how to gouge. And they do it legally, for the reason that the class which can rob on a large scale has the power to control courts.

Among other things they tell you to cultivate war gardens. Government reports now show that 52% of the arable, tillable soil is held out of use by the profiteers. They do not allow others to cultivate it. They keep it idle, to enrich themselves. Thus, it makes their land valuable. It is not the fault of the people; it is the fault of the landlords. And while we are upon the subject, think about

the landlord. The landlord is the great patriot. He is fighting to make the world safe for democracy. He it is who profits at the expense of the people under the pretense of being a great patriot. It is he whom you need to wipe from power. It is he who diminishes your health and your liberty far more than the Prussian junker on the other side of the ocean. According to their own figures, they will tell you that we will have to export more wheat for the soldiers on the other side.

They tell you there is a coal famine. The state of Indiana, where I live, is underlaid with coal. The coal is under our feet.
238 All that we can possibly use. The miners are ready to enter the mines. Here is the machinery ready to increase the output to any desired capacity. Aye, only three weeks ago, the officers of the United Mine Workers issued a bulletin to the Labor Department of the United States that the 600,000 coal miners of the United States at this time when they tell us of a coal famine, are not permitted to work more than one-half time. I have seen the miners idle. In the meantime there is a scarcity of coal. They tell you to buy your coal now and they charge you three prices for it. Now, we have a private ownership of the coal mines, and you ought to have if you vote for the Democratic or Republican ticket. The profiteers want a scarcity of coal. They make money out of a scarcity of coal. The operators say there are no cars and the railroads say there is no coal. And between them they defraud the people. Here is the difficulty. Here are the cars. The Socialist says, "Take possession of the mines. Set the miners at work. Give the miners all they produce. The miner works three hundred feet in the earth. The owner of the mine lives in New York or Vienna or Paris. He does not have to do a bit of work. He owns the tools, the machinery and the miner. And that is what you do every time you vote the Democratic or Republican ticket. Let the miner mine the coal and then he gets the full value of his toil. He can then provide himself and his wife and his children with a good home (and plenty to eat). So they continue to charge three prices for coal. If that is the thing you want, you will get it to your heart's content.

239 A change is needed, a change of system from despotism to democracy, a change from slavery to freedom; a change from brutehood to brotherhood. To accomplish this you have got to organize, and to organize not along the zig-zag lines laid down by Sam Gompers who, through all of his career, has been on the side of the capitalist class. You never hear the capitalist papers speak of him except in praise. Gompers was always conservative. * * * by solving the labor situation by the aid of Elihu Root and Andy Carnegie with whom he drank wine and smoked seab cigars.

Few men have the courage to say a decent word in favor of the I. W. W. I have. (Here several in the crowd yelled, 'So have I.')

I have a great respect for the I. W. W. There has been a pamphlet issued called, 'The Truth about the I. W. W.' After long investigation by five men who are not Socialists: John Graham Brooks, Harvard University; Mr. Bruers, Government investigator. (Other names not noted.)

These men inve-tigated the I. W. W. They have examined its doings, beginning at Bisbee, Arizona, where the officers deported five hundred. It is only necessary to label a man 'I. W. W.' to lynch him. Just think of the state of mind for which the capitalist press is responsible.

When Wall Street yells war, you may rest assured every pulpit in the land will yell war. The press and the pulpit have in every age and every nation been on the side of the exploiting class and the ruling class. That's why the I. W. W. is infamous.

240 The I. W. W. in its career has never committed as much violence against the ruling class as the ruling class has committed against the people. The trial at Chicago is now on and they have not proven violence in a single solitary case, and yet, one hundred and twelve have been on trial for months without a shade of evidence. And this is all in its favor. And for this and many other reasons, the I. W. W. is fighting the fight of the bottom dog. For the very reason that Gompers is glorified by Wall Street, Bill Haywood is despised by Wall Street. What you need is greater organization.

In the shop is where the industrial union has its beginning. Organize. Define your capacity. Act together. And when you organize industrially you will soon learn that you can manage industry as well as operate industry. You will find that you do not have to take work from them; you give them work to do. You can dispense with them. You ought to own your own tools. Organize industrially. Make the organization complete. Unite in the Socialist party. Vote as you organize. Stand with your party. See that that party improves the working class, especially this year when the forces will clash as they have never clashed before. Take your place in the ranks. Help to inspire the weak and strengthen the faltering. Then, when we vote together we will develop the supreme power of the one class that can bring peace to the world. We will transfer the title deeds of the railroads, of the telegraphs, the mines and

241 the mills. We will transfer them to the people. We will take possession in the name of the people. We will have industrial, social and political democracy. This change will be universal.

And now for all of us to do our duty. The call is ringing in your ears. Do not worry over the charge of treason to your masters, but be concerned about the treason that involves yourself. This year we are going to sweep into power and in this nation and we are going to destroy capitalistic institutions and re-create them. * * * The world of capital is collapsing. We need industrial builders. We Socialists are the builders of the world that is to be. We are inviting you this afternoon. Join and it will help you.

In due course of time we will proclaim the emancipation of the brotherhood of all manhind."

This is correctly transcribed from my notes. I am twenty years old.

The Court: When were you twenty?

The Witness: On January 16, 1918.

Q. You observed the audience and heard Mr. Debs. Did you the crowd there?

A. I saw the crowd there, but I didn't have much chance to serve them. I was busy with my notes. The ages in the cr seemed to be about twenty and thirty, the majority of them, can't say that I noticed any younger than that. There were v few old people there; not very many.

The Court: How many were there? or did you form an opin at the time?

242 The Witness: I should say between 200 and 250 v there.

Cross-examination by Mr. Stedman:

Q. You mean the audience comprised about 250 people?

A. Yes, sir.

Q. Will you open your note book and refer, if you can, to ab the fourth or fifth paragraph, where you say, "go to the city Washington, and you will find that corporation lawyers, memb of Congress—" Was not this the statement: "If you go to the c of Washington and you examine the pages of the Congressional rectory, you will find that almost all of those corporation lawyers—

A. The notes I have here correspond exactly with the way t speech reads in the indictment. I might have omitted, "and you amine the pages of the Congressional Directory."

The Court: Read what you have there, Mr. Steiner.

The Witness: (reading) "Go to the City of Washington and co sult the files there, and you will find that the corporation lawye members of Congress, and misrepresentatives of the masses—almo all of them claim that they have risen from the ranks."

Q. You do not say "and you examine the pages of the Congre sional Directory"?

A. I do not have that in my notes. I may have omitted it. have "In 1869, that grand old warrior of the Socialist Revolutio the elder Liebknecht—". I have "Alsace-Lorraine from France— I have not the word, "Annexing" there. I do not have in my note "annexing it to Germany," I have, "and giving it to Ge

243 many."

Q. Have you the following in your notes: "and for th they were sent to a prison fortress, charged with high treason; b cause even in that early day, almost fifty years ago, these leader these forerunners, of the Socialist movement—"?

A. I do not have that exactly as you have it there. I have, "The were taken from the Reichstag and sent to prison for two years. Fo four years previous to this, they had been fighting the Kaiser an the Junkers of Germany." I do not have, "charged with hig treason, because even in that early day almost fifty years ago, thes leaders, these forerunners," and so forth. I don't mean to say tha that was not said, only I didn't get it in my notes. I do not hav

all of, "and I challenge you to find a Socialist anywhere on the face of the earth who was ever the guest of the Beast of Berlin, except as an inmate of his prison,—the elder Liebknecht and the younger Liebknecht, the heroic son of his immortal sire." I don't mean to say that he did not say that.

Q. Did he not state the following: "I hate; I loathe; I despise junkerdom. I have no earthly use for the Junkers of Germany and not one particle more use for the Junkers in the United States"?

A. I do not have that first sentence you said. I have the second one completely. I do not have, "I loathe". I do not mean to say that was not said by him. I have not exactly as you read it, the following: "These very gentry who are today wrapped up in the American flag who make the claim that they are the only
244 patriots, who have their magnifying glasses in hand, who are scanning the country for some evidence of disloyalty, so eager, so ready to apply the brand to the men who even dare to whisper opposition to junker rule in the United States." I have not, "These very gentry who are today wrapped up in the American flag, who make the claim that they are the only patriots." I have, "And they scan the country with a magnifying glass for evidence of disloyalty." I don't have, "So eager, so ready to apply the brand to the men who dare to even whisper opposition to the junker rule in the United States." I do not deny the statement being made. I have, "Let us review another bit of history. Do you remember Francis J. Heney—". I do not have at that particular place: "the special investigator of the National (or nation) in this country—". I have a reference similar to that about two or three sentences farther. I have, "was shot down in a courtroom in San Francisco." I do not have the exact words that you have there, "You remember it, don't you? The United Railways consisting of a lot of plutocrat hide-binders' organization in the Chamber of Commerce, absolutely own and control the city of San Francisco. It is their private reservation. I have almost the same words. I have, "Do you remember Francis J. Heney, who was shot down in the courtrooms in San Francisco? A committee composed of high-binders, largely of members of the Chamber of Commerce, absolutely controlled the courts of San Francisco." The reference to Leon Trotsky I have here
says, "For this condition Leon Trotsky was not responsible
245 nor was the Bolshevik movement." I do not have the word, "why". I have the word, "while". I have, "while it has been charged that the leaders made a traitors' peace with Germany." I haven't, "Revolution" or "treacherous". I have, "Let us consider that proposition briefly. At the time of the Revolution, Russia—". I have, "Russia had lost 4,000,000 of her soldiers." I haven't, "Three years," or "under the Czar." I have, "She was absolutely bankrupt." I do not have the word, "mainly", in the sentence, "her soldiers were mainly without arms." I omit the words, "and his regime", in the sentence, "this was what the Revolution—what was bequeathed to Russia by the Czar and his regime." I have all the rest of it. I have, "For this condition Leon Trotsky was not responsible, nor was the Bolshevik movement but the Czar was." I do

not have the exact words, "For this frightful condition
was responsible." I do not mean to say that that was not
do not have, "and went through the Archives," in the
"When Trotsky came into power and went through the a
I have, "They found the secret treaties." I do not have
words, "The secret treaties that were made between the Czar
French government, and the British government, and th
government, proposing after the victory was achieved, to di
and disperse and destroy the Central Powers". I have a
to, "proposing, after the victory was achieved, to dismember
perse and destroy the Central Powers." It reads, "When Le
sky came into power, he found the secret treaties
246 tween the French government and the British gov
and the Italian government which was to divide t
tory of the Central Powers if the Allies were victorious, a
secret treaties have not been repudiated up to this time."
have the exact words, "In the middle ages the feudal lor
inhabited the castles whose towers may still be seen al
Rhine—whenever one of these lords wished to enrich himse
he made war on the other". I have the context of that in
words. I will say that I do not have it in my notes, as rea
I do not have the exact words, "the feudal lords, the bar
economic predecessors of the modern capitalist, they decl
the wars. Who fought the battles? The miserable serfs.
serfs had been taught to believe that when their masters
and waged wars on one another it was their patriotic duty
upon one another and to cut one another's throats, to mur
another for the profit and the glory of the plutocrats, the bar
lords, who held them all in contempt." The nearest I have
is, "The serfs believed that it was their patriotic duty to fa
one another, to wage war upon one another. That is war i
shell." I haven't, "to murder one another for the profit
glory of the plutocrats, the barons, the lords who held them
tempt." I have not the word "same" in the sentence, "Roosev
a thousand times more in the same paper—The Kansas City
I have, "in his paper—The Kansas City Star." I do no
"Roosevelt said the other day that he would be heard if he
jail. He knows very well that he will not go to jail.
247 laying his wires for the Republican nomination in 19
will not say that it was not said. In regard to the sta
about the I. W. W. I have not the word "listen". I have,
is a pamphlet". I have not the word, "just". I have not,
been issued." I have the words, "After long investigation
men who are not Socialists." Then I started to list the nar
didn't have "at the head of this."

The Court: What names have you there?

The Witness: I have only two names: John Graham Brooks
vard University, Mr. Brauers, Government inspector. The
names were not noted.

Q. You didn't get, "John A. Fish, of the Survey and of t
ligious Organization of Pittsburgh?" I didn't get the other

names. I have, "These men investigated the I. W. W." I haven't the words, "impartial examination." I have not, "to use their own words, they have followed its trail." I have, "They have examined its doings beginning at Bisbee." I have the word, "Where". The next I have after that is, "The officers deported five hundred." I have no reference to Praeger here. I have, "It is only necessary to label a man 'I. W. W.' to lynch him." I do not have, "Look into this pamphlet." I do not have, "Don't take the word of the Wall Street press for that. Get this pamphlet of truth about the I. W. W. by five men who are incorruptable, uncontaminated—five men who dared to want to know the truth and tell the truth to the American people, with the truth in this pamphlet." I have, "The I.
248 W. W. in its career has never committed — much violence against the ruling class as the ruling class has committed against the people." I omitted the words, "They say." My notes do not show generally that he was quoting from what these men said. The way this sentence I just read to you appears in my notes is as though Debs himself said it. I have in my notes what I just read to you. I will not say that he did not say, "Look into this pamphlet, don't take the word of the Wall Street for that. Get this pamphlet of truth about the I. W. W. by five men who are incorruptible, uncontaminated—five men who dared to want to know the truth and tell the truth to the American people with the truth in this pamphlet. They say that the I. W. W. in all of its career never committed as much violence against the ruling class as the ruling class has committed against the people." I was taking my notes at a table on the platform from which Mr. Debs was speaking; there was another party taking notes at the same time; his name was E. R. Sterling; I think he is a lawyer; according to my knowledge of Mr. Sterling, he is now a lawyer but was formerly a court reporter; I have no idea how long a practice he has had; I didn't compare my notes with him; I have not seen his report. I am not a reporter; I am a stenograhper; my practice has been taking letters; taking reports is not my line; my line is general office work; I have not had experience in taking speeches; there were things, in substance, that he said that I did not get.

Mr. Stedman: I now wish to move to exclude the evi-
249 dence of this witness as to the report, on the ground that there is a variance, and that it does not report or state in words or substance completely what was said.

The Court: Your objection will be overruled.

Mr. Stedman: Exception.

250 Thereupon the Government further to maintain the issues on its part to be maintained, called as a witness EDWARD R. STERLING, who being first duly sworn, testified as follows:

Direct examination by Mr. Wertz:

My name is Edward R. Sterling; I am a lawyer and shorthand reporter; I have been reporting about seven years, but I have been a

student of shorthand and engaged in shorthand work f
thirteen years; I have been a lawyer four years, practic
ton. My age is thirty-two; on the 16th of June 1918,
few months younger than I am now. I was still thirty-
be thirty-three November twenty-fifth. I reported a
Nimisila park on the 16th of June 1918 for the Socialis
cialists employed me; I was to stenographically report th
Eugene V. Debs, which I did. I have my notes with me
solutely transcribed my notes accurately.

Q. Will you read the copy which you have transcrib

Mr. Stedman: I want to reserve my objection to th
ground, as we have seen it, the report differs in substance
from the one set forth in the indictment.

The Court: Your objection will be overruled.

Mr. Stedman: Exception.

A. This is a speech delivered by Eugene V. Debs, a
park, Canton, Sunday evening, June 16, 1918. Mr. De
following, which I reported in shorthand at that time, a
my transcript is follows:

251 "Comrades, friends and fellow-workers, for this
dial greeting, this very hearty reception, I than
with the fullest appreciation of your interest in, your d
the cause for which I am to speak to you this afterno
plause.)

To speak for labor; to plead the cause of the men and w
children who toil; to serve the working class, has alway
me a high privilege; (applause) a duty of love.

I have just returned from a visit over yonder (point
workhouse) (laughter), where three, three of our most l
rades (applause) are paying the penalty for their devot
cause of the working class. (Applause.) They have
realize, as many of us have, that it is extremely dangerou
cise the constitutional right of free speech in a country t
make democracy safe in the world. (applause)

I realize that, in speaking to you this afternoon, that
certain limitations placed upon the right of free speech.
exceedingly careful, prudent, as to what I say, and even mo
and more prudent as to how I say it. (laughter) I m
able to say all I think (laughter and applause); but I am
to say anything that I do not think (applause). But,
rather a thousand times be a free soul in jail than to be a s
and coward on the streets (applause and shouts). They
those boys in jail—and some of the rest of us in
252 they cannot put the Socialist movement in jail (app
shouts). Those prison bars separate their bodies f
but their souls are here this afternoon (applause and shouts
are simply paying the penalty that all men have paid in

ages of history for standing erect, and for seeking to pave the
to better conditions for mankind (applause).

If it had not been for the men and women, who, in the past
had the moral courage to go to jail, we would still be in the ju
(applause).

This assemblage is exceedingly good to look upon. I wish it
possible to give you what you are giving me this afternoon (la
ter). What I say here amounts to but little; what I see here i
ceedingly important (applause). You workers here in Ohio,
listed in the greatest cause ever organized in the interest of
class, are making history today in the face of threatening tro
of all kinds—history that is going to be read with profound int
by coming generations (applause).

There is but one thing that you have to be concerned about,
that is that you keep four-square with the principles of the inte
tional Social movement (applause). It is only when you begi
compromise that trouble begins (applause). So far as I am
cerned, it does not matter what others may say, or think, or d
long as I am sure that I am right with myself and the cause
plause). There are so many who seek refuge in the popular
of a great question. On account of that, I hope, as a Socialis
have long since learned how to stand alone (applause).

253 For the last month I have been traveling over the Hoo
State; and, let me say to you, that, in all my connection
the Socialist movement, I have never seen such meetings such
thusiasm, such unity of purpose; never have I seen such a promi
outlook as there is today, notwithstanding the statement they h
published repeatedly that our leaders have deserted us (laught
Well, for myself, I never had much faith in leaders, anyway,
plause) and (laughter). I am willing to be charged with alm
anything, rather than to be charged with being a leader. I am
picious of leader, myself, and especially of the intellectual var
(applause). Give me the rank and file every day in the week.
you go to the City of Washington, and you examine the pages of
Congressional Directory, you will find that almost all of those co
rations lawyers and cowardly politicians, members of Congress,
misrepresentatives of the masses—you will find that almost all
them claim in glowing terms, that they have risen from the rank
places of eminence and distinction. I am so glad that I cannot m
that claim for myself (laughter). I would be ashamed to ad
that I had risen from the ranks. When I rise it will be with
ranks, and not from the ranks (applause).

When I came away from Indiana, the comrades said: "Wh
you cross the line and get over into the Buckeye state, tell the c
rades over there that we are on duty and doing duty. Give them
us a hearty greeting, and tell them we are going to make a rec
this fall that will be read all around the world" (applaus

254 The Socialists of Ohio, it appears, are very much alive t
year. The party has been killed recently (laughter) whi
no doubt, accounts for its extraordinary activity (laughter). Th

is nothing that helps the Socialist party so much as r
casional death blow (laughter). The oftener it is k
boundless, the more active, the more energetic, the m
becomes.

They who have been reading the capitalist new
what a capacity they have for lying. We have been
lately. They know all about the *the* Socialist party
movement, except what is true (laughter). Only the
took an article that I had written—and most of you
most of you members of the party, at least—and they
that I had undergone a marvelous transformation
had suddenly become changed,—suddenly come to my
ceased to be a wicked Socialist,.and had become a resp
ist (laughter), a patriotic Socialist—as if I had ever
else. (laughter)

What was the purpose of this deliberate misreprese
so self-evident that it suggests itself. The purpose w
seed of dissension in our ranks; to have it appear
divided among ourselves; that we were pitted against
our mutual undoing. But Socialists were not born
plause). They know how to read capitalist newspape
(applause) and to believe exactly opposite what they r
and laughter).

255 Why should a Socialist be discouraged on t
greatest triumph in all the history of the Socia
(applause)? It is true that these are anxious, tryin
all—testing days for the women and men who are u
banner of the working class in the struggle of the worki
the world against the exploiters of all the world (applau
which the weak and cowardly will falter and fail and
lack the fibre to endure the revolutionary test; they fa
disappear as if they had never been. On the other ha
are animated with the unconquerable spirit of the Soci
they who have the moral courage to stand erect and as
victions; stand by them; fight for them; go to jail or to
if need be (applause) and (shouts)—they are writing
in this crucial hour—they are writing their names in f
in the history of mankind (applause).

Those boys over yonder—those comrades of ours—a
them—aye, they are my younger brothers (laughter a
their very names throb in my heart, and thrill in m
surge in my soul (applause). I am proud of them; t
for us (applause); and we are here for them (applaus
cheers). Their lips, though temporarily mute, are m
than ever before; and their voice, though silent, is hear
world (great applause).

Are we opposed to Prussian militarism (laughter)?
the crowd of "Yes, Yes." Why, we have bee
256 since the day the Socialist movement was born
and we are going to continue to fight it, day and

it is wiped from the face of the earth (thunderous applause a
cheers). Between us there is no truce—no compromise.

But, before I proceed, along this line, let me recall a little histo
in which I think we are all interested.

In 1869 that grand old warrior of the Socialist revolution, t
elder Liebknecht, was arrested and sentenced to prison for thr
months, because of his war, as a Socialist, on the Kaiser and on t
Junkers that rule Germany. In the meantime the Franco-Prussi
war broke out. Liebknecht and Badel were the Socialist membe
in the Reichstag. They were the only two who had the courage
protest against taking Alsace-Lorraine from France and annexi
it to Germany. And for this they were sent two years to a pris
fortress charged with high treason; because, even in that early da
almost fifty years ago, these leaders, these fore-runners of the int
national Socialist movement were fighting the Kaiser and fightin
the Junkers of Germany (great applause and cheers). They ha
continued to fight them from that day to this (applause). Mul
plied thousands of them have languished in the jails of Germa
because of their heroic warfare upon the ruling class of that countr
(applause)

Let us come down the line a little further. You remember tha
at the close of Theodore Roosevelt's second term as President,
went over to Africa (laughter) to make war on some of h
257 ancestors (laughter) (continued shouts, cheers, laughter an
applause.) You remember that, at the close of h
expedition, he visited all of the capitals of Europe; and h
was wined and dined, dignified and glorified by all of th
Kaisers and Czars and emperors of the old world (applause
He visited Potsdam while the Kaiser was there; and, accordin
to the accounts published in the American Newspapers,
and the Kaiser were soon on the most familiar ter
(laughter). They were hilariously intimate with each other, an
slapped each other on the back (laughter). After Roosevelt ha
reviewed the Kaiser's troops and according to the same account
he became enthusiastic over the Kaiser's troops, and said: "if I ha
that kind of an army, I would conquer the world". (laughter) I
knew the Kaiser then just as well as he knows him now (laughter
He knew that he was the Beast of Berlin. And yet he permitte
himself to be entertained by the Beast of Berlin (applause); ha
his feet under the mahogany of the Beast of Berlin; was cheek b
jowl with the Beast of Berlin (applause). And, while Rooseve
was being entertained royally by the German Kaiser, that san
Kaiser was putting the leaders of the Socialist party in jail for figh
ing the Kaiser and the junkers of Germany (applause). Rooseve
was the guest of honor in the whitehouse of the Kaiser, while th
Socialists were in the jails of the Kaiser for fighting the Kais
(applause) Who was fighting for Democracy? Roosevelt? (Shou
of "no") Roosevelt, who was honored by the Kaiser, or the Socia
ists who were in jail by the order of the Kaiser? (applause
258 "Birds of a feather flock together" (laughter)

When the newspapers reported that Kaiser William and E

President Theodore — recognized each other at sight, were perfectly intimate with each other at first touch, they made the admission that is fatal to the claims of Theodore Roosevelt, that he is a great friend of the people and the champion of Democracy; they admitted that they were kith and kin; that they were very much alike that their ideas and ideals were about the same. If Theodore Roosevelt is now the great champion of Democracy (laughter), the arch—the arch foe of autocracy (laughter), what business had he as the guest of honor of the Kaiser? And when he met the Kaiser, and did honor to the Kaiser, under the terms imputed to him, wasn't that pretty strong proof that he, himself was a kaiser at heart? (applause). Now, after being the guest of Emperor William, the Beast of Berlin, he came back to this country, and he wants you to send ten million men over there to kill the Kaiser (applause and laughter), to murder his former friend and pal (laughter). Rather queer, isn't it? And yet, he is the patriot, and we are the traitors (applause). And I challenge you to find a Socialist anywhere on the face of the earth who was ever the guest of the Beast of Berlin (applause), except as an inmate of his prison,—the elder Liebknecht and the younger Liebknecht, the heroic son of his immortal sire.

A little more history along the same line. In 1902 Prince Henry paid a visit to this country. Do you remember him (laughter)? I do, exceedingly well. Prince Henry is the brother of
259 King William. Prince Henry is another Beast of Berlin, an autocrat, an aristocrat, a junker of junkers—very much despised, very much despised by our American patriots. He came over here in 1902 as the representative of Kaiser Wilhelm; he was received by Congress, by several legislatures —among others, by the State legislature of Massachusetts, then in session. He was invited there by the capitalist captains of that so-called commonwealth. And when Prince Henry came there, there was one member of that body who kept his self-respect, put on his hat, and, as Henry, the Prince, walked in, that member of the body walked out. And that was James F. Carey, the Socialist member of that body (applause). All of the rest—all of the rest of the representatives in the Massachusetts legislature—all, all of them—joined in doing honor, in the most servile spirit to the high representative of the autocracy of Europe. And the only man, who left that body, was a Socialist. And yet (applause) and yet they have the hardihood to claim that they are fighting autocracy and we are in the service of the German government. (applause.)

A little more history along the same line. I have a distinct recollection of it. It occurred just fifteen years ago when Prince Henry came here. All of our plutocracy, all of the wealthy representatives living along Fifth Avenue—all, all of them—threw their palace doors wide open and received Prince Henry with open arms. They were not satisfied with this; they got down on their stomachs; they groveled in the dust at his feet; and our plutocracy—women and men alike—vied with each other to get down and lick the
260 boots of the Prince Henry, the representative of the Beast of Berlin (applause). And still our plutocracy, our junkers—

don't think for a moment that the junkers are confined to Germany (applause). It is precisely because we refuse to believe this they brand us as disloyalists. They want our eyes focused on the junkers in Berlin, so that we will not see those within our *own* borders.

I hate; I loathe; I despise junkerdom. I have no earthly use for the junkers of Germany, and not one particle more use for the junkers in the United States (thunderous applause and cheers.).

They tell us that we live in a great Republic; our institutions are Democratic; we are a free people (laughter) This is too much, even as a joke (laughter). It is not a subject for levity; it is an exceedingly serious matter.

To whom do the Wall Street junkers in our country—to whom do they marry their daughters? After they have wrung the countless hundreds of millions from your sweat, your agony, your lifeblood, in a time of war as well as in a time of peace, they invest these billions and millions in the purchase of titles of broken-down aristocrats, and to buy counts of no-account (laughter). Are they satisfied to wed bad daughters to honest working men? (shouts from the crowd: "No.") to real Democrats? Oh, no. They scour the markets of Europe for fellows who have titles and nothing else (laughter). And they swap their millions for titles; so that matrimony, with them, becomes entirely a matter of money (laughter), literally so.

These very gentry, who are today wrapped up in the
261 American flag, who make the claim that they are the only patriots, who have their magnifying glasses in hand, who are scanning the country for some evidence of disloyalty, so eager, so ready to apply the brand to the men who dare to even whisper opposi-on to junker rule in the United States. No wonder Jackson said that "Patriotism is the last refuge of scoundrels." He had the Wall Street gentry in mind or their prototypes, at least; for in every age it has been the tyrant, who has wrapped himself in the cloak of patriotism, or religion, or both. (Shouts of "Good, good" from the crowd) (applause).

They would have you believe that the Socialist party consists, in the main, of disloyalists, and traitors. It is true, in a certain sense. We are disloyalists and traitors to the real traitors of this nation (applause); to the gang, that on the Pacific coast are trying to hang Tom Mooney, in spite of the protest of the whole civilized world. (applause, shouts and cheers).

I know Tom Mooney intimately,—as if he were my own brother. He is an absolutely honest, innocent man (applause). He had no more to do with the crime with which he is charged than I have (applause). And, if he ought to go to the gallows so ought I. If he is guilty, every man who belongs to a labor organization or to the Socialist party is, likewise, guilty.

What is he guilty of? I'll tell you. I am familiar with his record. For years he has been fighting the battles of the working class out on the Pacific coast. He refused to be bribed or to be brow beaten. He continued loyally in the service of the working
262 class, and for this he was marked. They said: "He can't

be bought; he refuses to be bribed, and he cannot be intimidated. Therefore, he must be murdered." (applause).

Let us review another bit of history. Do you remember that Francis J. Heney, the special investigator of the National — in this country was shot down in the court room in San Francisco? You remember it, don't you? The United Railways consisting of a lot of plutocrats, hide binder's organization in the Chamber of Commerce, absolutely own and control the city of San Francisco. It is their private reservation. Their will is the supreme law. Take your stand against them, you are doomed. They do not hesitate to plot murder to perpetuate their murderous regime. Tom Mooney was the only representative of the working class they could not control (applause). They owned the railways; they controlled the great industries; they were the industrial masters, they were the political rulers; from their decision there was no appeal—the real autocrats of the Pacific coast—as infamous as any that ever ruled in Germany or any other country (applause). And when their rule became so corrupt, that, at last, a grand jury was found that indicted them, and they were placed on trial, and Francis J. Heney, who has just incriminated the packers, and found another gang—the packers of Chicago—Francis J. Heney, who had been selected by the National Administration to assist in the prosecution, this same gang, represented by the Chamber of Commerce; this gang of plutocrats,
263 autocrats and hide-binders, hired a murderer to shoot Francis J. Heney down in the court room, and he did. Francis J Heney happened to live through it. But that wasn't their fault. The identically same gang that hired the murderer to kill Heney, that very same gang are also for the execution of Tom Mooney (applause). Every solitary—every one of them claims to be an arch-patriot; every one insists through his newspapers that he is fighting to make Democracy safe in the world. What humbug! What rot! What false pretense! These autocrats, these tyrants, these red-handed robbers and murderers, the patriots while the men who have the courage to stand up face to face with them and fight them in the interest of their exploited victims—they are the disloyalists and traitors. If this be true, I want to take my place side by side with the traitors in this fight (great applause).

Why the other day they sent Kate Richard O'Hare to the penitentiary for ten years. Oh, just think of sentencing a woman to the penitentiary for talking (laughter). The United States, under the rule of the plutocracy, is the only country that would send a woman to the penitentiary for ten years for exercising her constitutional right of free speech (applause). If this be treason let them make the most of it. (applause)

Let me review another bit of history in connection with this case. I have known Kate Richard O'Hare intimately for twenty years. I know her record by heart. Personally, I know her as if she were my own younger sister. All who know her know she is a
264 woman of absolute integrity (applause). And they know, too, that she is a woman of courage, and they know that she is a woman of unimpeachable loyalty to the Socialist movement

(applause). When she went out into Dakota and made her speech, followed by plain clothes men in the service of the Government intent upon encompassing her arrest and her prosecution and her conviction—when she was out there, it was with the knowledge that sooner or later they would accomplish their purpose. She made a certain speech, and that speech was deliberately misrepresented for the purpose of securing her conviction. The only testimony against her was that of a hired witness. And when thirty farmers, men and women, who were in the audience she addressed—heard her speech, when they went to Bismarck to testify in her favor, to swear that she had never used the language she was charged with having used, the judge refused to allow them to go upon the stand. This would seem incredible to me, if I had not had some experience of my own with a Federal court (applause).

Who appoints the Federal judges? The people? In all of the history of the country, the working class have never named a Federal judge. There are 121, and every solitary one of them holds his position, his tenure, through the influence and power of corporate capital. The corporations and trusts dictate their appointment. And when they go to the bench, they go, not to serve the people, but to serve the interests that placed them where they are (applause).

Why the other day by a vote of five to four—a kind of
265 crap game (laughter) come seven, come eleven—(laughter) they declared the child labor law unconstitutional (laughter), a law secured after twenty years of education and agitation on the part of all kinds of people. And yet, by a majority of one, the Supreme Court, a body of corporation lawyers—with one, solitary exception—wiped it from the statute books, and this in a Democracy, so that we may still continue to grind the flesh and blood and bones of puny little children into profits for the junkers of Wall Street (applause). And this in a country that is fighting to make Democracy safe in the world. (laughter). The history of this country *if* being written in the blood of the childhood they have murdered.

These are not very palatable truths to them. They do not like to hear them; and they do not want you to hear them. And that is why they brand us as undesirable citizens (laughter) and (applause), and as disloyalists, and as traitors. If we were traitors—if we were traitors to the people, we would be eminently respectable citizens of the republic; we could hold high office, and we could ride in limousines; and could be pointed out as people who had succeeded in life, in honorable pursuits. It is precisely because we are disloyal to the traitors that we are loyal to the people of this country. (applause).

Scott Nearing. You have heard of Scott Nearing (applause). He is the greatest teacher in the United States (applause). He was in the University of Pennsylvania until the Board of Trustees, consisting of great capitalists, found that he was teaching true economics to the students of the university. Then they said,
266 just as the same usurers, the same money changers, the same Pharasees, the same hypocrites said of the Judean carpenter

twenty centuries ago. They said of Jesus Christ, who was a work
man, and an agitator and an undesirable, they said: "He is prea
ing a false religion." And they crucified him. And his lin
descendants said, "He is preaching false economics. We can
crucify him, as we did his elder brother, so we will starve him
death (applause). We will discharge him and blacklist him, a
make it impossible for him to get a job. He is a dangerous ma
he is teaching the truth. And the truth, oh, the truth has alwa
been unpalatable to the class who live out of the sweat of the worki
class (applause).

True, Max Eastman (applause) was indicted and his paper su
pressed, just as papers with which I have been connected are
suppressed. What a wonderful compliment they paid us (laugh
and applause). They are afraid that we might contaminate yo
You are their wards; they are your guardians (laughter). Th
must see to it that our vicious doctrines don't reach your ears. A
so, in our Democracy, under free institutions, they flatter our pre
and they imagine that they have silenced revolutionary propagand
What a mistake they made. We ought to pass a resolution
thanks and gratitude to them. Thousands of people, who ha
never heard of our paper before, are now inquiring for it, wantin
to see it. They have started inquiry and curiosity in our prop
ganda. And woe to the man who reads our Socialist literature fro
curiosity. He is a goner (applause). I have known of
267 thousand experiments, but I have never known of a sing
man or woman, to escape it.

John M. Werk. You know John, now, don't you, who is no
on the Milwaukee Leader? When I first knew John he was
lawyer out in Wisconsin. The corporation capitalists becam
alarmed because of the rapid advancement of the Socialist move
ment. So they said: "We have to engage some bright fellow t
fight this." They said: "Well, John, you are a bright youn
lawyer; and you have a great career before you. We want to engag
you to find out all you can about Socialism, and then proceed t
counteract its baneful effect."

John got some Socialist literature, and began to study it; an
after he had read the second volume he was a full-fledged Socialist
and he has been fighting for Socialism ever since.

How short sighted the ruling class is. Cupidity is stone blind
The exploiter cannot see beyond the end of his nose. He can see a
chance for an opening; he is just cunning enough to know what
graft is and where it is, and how it can be secured, but he has no
vision—not the slightest. He knows nothing of the great throbbing
world that spreads out in all directions. That is the penalty that
the exploiter pays. Rockefeller is blind. Every move he makes
hastens the coming of his doom. Every time he and his class strike
a blow at the Socialist movement it reacts upon them. Every time
they strike us, they hit themselves. It never fails (applause).
Every time they strangle a Socialist newspaper, they add a thousand
voices proclaiming the eternal truth of the principles and
268 doctrines of Socialism. They help us in spite of themselves.
Socialism is a growing idea, an expanding philosophy,

It is spreading over the face of the earth. It is useless to resist it as it would be to try to arrest the sunrise on the morrow. It is coming, coming, coming, all along the line. Can't you see it? If you can't, consult an oculist; there is something the matter; you are lacking in vision, in common understanding. The greatest movement in history. What a privilege it is to serve it. I have regretted a thousand times that I can do so little for the movement that has done so much for me (applause). The little that I am, the little that I am hoping to be, is due wholly to the Socialist movement (applause). It gave me my ideas and my ideals; and I wouldn't exchange all of them for all of Rockefeller's blood-stained dollars (cheers). It taught me how to serve—a lesson to me of priceless value. It taught me the ecstacy of the hand-clasp of a comrade. It taught me to hold high communion with you; it made it possible for me to get in touch with you; to take my place side by side with you; to multiply myself over and over again; to make me thrill with a fresh-born manhood; to make life worth while; to open the avenues; to spread out the glorious vistas; to know that I am akin with all that throbs; to become class conscious; to realize that, regardless of nationality, race, creed, color or sex, every man, every woman who toils, every member of the working class—every one of them—are my comrades, my brothers, my sisters—
269 to serve them is the highest duty of my life (great applause).

And, in their service, I can feel myself expand; I rise to the stature of a man; I feel that I have a right to a place on earth—a place where I can stand and help to uphold the banner of industrial freedom and of Socialistic righteousness. Yes, yes; my heart is attuned with yours. Aye, all of our hearts are melted into one great heart that throbs responsive to the social revolution. Here, in this assemblage (applause) I hear our heart- beat responsive to the Bolsheviki of Russia (deafening and prolonged applause). Yes. Those heroic men and women, those unconquerable comrades, who have, by their sacrifice, added fresh luster to the international movement. Those Russian comrades, who have made greater sacrifices, who have suffered more, who have shed more heroic blood than any like men or number of men and women anywhere else on earth, they have laid the foundation of the first real Democracy that ever drew (great applause) the first real Democracy that ever drew the breath of life on God's foot-stool (applause). And the very first act of the immortal revolution was to proclaim a state of peace with all the world, coupled with an appeal, not to the kings, not to the emperors, not to the rulers, not to the diplomats, but an appeal to the people of all nations (applause). There is the very birth of Democracy, the quintessence of freedom. They made their appeal to the people of all nations, the Allies as well as the Central Powers, to send representatives to a conference to lay down terms of peace that should be Democratic and lasting. Here was a fine—here was a fine opportunity to strike a blow to make Democracy safe in the world
270 (applause). Was there any response to that noble appeal?

And here let me say that that appeal will be written in letters of gold in the history of the world (applause). Was there any

response to that appeal? (From the crowd "No".) No slightest.

Why, it has been charged that Leon Trotsky and the lead the revolution were treacherous, that they made a traitorous with Germany. Let us consider that proposition, briefly. A time of the Revolution, Russia had been three years in the Under the Czar she had lost more than four millions of her sol slain or mutilated on the field of battle. She was absolutely rupt. Her soldiers were mainly without arms. This was wha Revolution—what was bequeathed to the Revolution by the and his regime; and, for this condition Leon Trotsky was no sponsible, nor the Bolsheviki. For this frightful condition Czar was responsible. When Trotsky came into power and through the archives, they found the secret treaties—the treaties were made between the Czar and the French government and British government and the Italian government, proposing, the victory was achieved, to dismember and disperse and destroy Central Powers. These treaties have never been repudiated. little has been said about them in the American press. I ha copy of these treaties showing that the purpose of the Allies i actly the purpose of the Central Powers (applause). And th the purpose that has always been the purpose of war. Wars been waged for conquest for plunder. In the middle
271 the feudal lords, who inhabited the castles whose towers still be seen along the Rhine—whenever one of these fe lords wished to enrich himself, then he made war on the ot Why? They wanted to enlarge their domains. They wante increase their power, their wealth, and so they declared war u each other. But they do not go to war any more than the W street junkers go to war (applause). The feudal lords, the bar the economic predecessors of the modern capitalist, they decla all the wars. Who fought the battles? Their miserable serfs. the serfs had been taught to believe that when their masters clared and waged war upon one another, it was their patriotic d to fall upon one another, and to cut one another's throats, to mur one another for the profit and the glory of the plutocrats, the bar the lords who held them all in contempt. And that is war in a shell. The master class has always declared the war; the sub class has always fought the battles; the master class has had all gain, nothing to lose, and the subject class has had nothing to g and all to lose including their lives (applause). They have alw taught you that it is your patriotic duty to go to war and to h yourselves slaughtered at a command. But in all of the history the world you, the people, never had a voice in declaring war. Y have never yet had. And here let me state a fact—and it cannot repeated too often: the working class who fight the battles, the wo ing class who make the sacrifices, the working class who shed blood, the working class who furnish the corpses, the working cl have never yet had a voice in *in* declaring war. The wo
272 ing class have never yet had a voice in making peace. It

the ruling class that does both. They declare war; they make peace.

"Yours not to ask the question why;
Yours but to do and die."

That is their motto, and we object on the part of the awakened workers.

If war is right, let it be declared by the people—you have your lives to lose; you certainly ought to have the right to declare war, if you consider a war necessary (applause).

Rose Pastor Stokes. And when I mention her name (applause) I take off my hat—mentally at least. (He spoke without a hat on his head.) Here is another heroic and inspiring comrade. She had her millions of dollars. Did it restrain her an instant? Her devotion to the cause had arrested all consideration of a financial or an economic nature. She went out to render her service to the cause in this day of crises, and they sent her to the penitentiary for ten years. Think of it! Ten years! What had she said? Not any more than I have said here this afternoon (laughter). I want to admit—I want to admit, without argument, that if Rose Pastor Stokes is guilty, so am I. If she is guilty, I wouldn't be cowardly enough to plead my innocence. And if she ought to be sent to the penitentiary ten years, so ought I.

What did she say? Why, she said that a Government—a Government could not serve both the profiteers and the victim of the profiteers. Isn't that true? Certainly.

273 Roosevelt said a thousand times more in the same paper. The Kansas City Star. Roosevelt said, the other day, that he would be heard if he went to jail. He knows very well that he will not go to jail. He is laying his wires for the Republican nomination in 1920. And he would do everything possible to discredit Wilson in his administration. He would do that in order to give himself and his party all of the credit. That is your wonderful rivalry between the two patriotic parties—the Republican party and the Democratic party, the twins. They are not going to have any agitation between them this fall. They are all patriots this time and they are going to combine to prevent the election of any disloyal Socialists. I haven't heard anybody anywhere tell me of any difference between them. Do you know of any? Not the slightest. One is in, the other is out. That is all the difference there is between them (laughter).

Rose Pastor Stokes never uttered a word she did not have a legal, constitutional right to utter. But her message for the people, the message that opened the eyes of the people—that must be suppressed; her voice must be silenced. And so she was confronted with a mock trial, and sent to the penitentiary for ten years. Her sentence was a for-gone conclusion. A trial in a capitalist court usually ends farci-al—very farci-al. What ghost of a chance had she in a court with a packed jury and a corporation tool on the bench? Not the least in the world. So she goes to the penitentiary for ten years.

274 if they carry out the program. I don't think they will. In fact, I am sure they will not. If the war was over tomorrow, all of the prison doors would open. They just want to

silence this voice during the war. The cases will be appe
they will remain pending in court many a month, perha
What a compliment it is to the Socialist movement for te
truth. The truth will make the people free (applause).
truth must not be permitted to reach the people. The trut
ways been dangerous to the rule of the rogue, the explo
robber. So the truth must be suppressed. That is why
trying to drive out the Socialist movement; and every ti
make the attempt, they add ten thousand voices proclaim
Socialism has come to stay (applause).

(Here Mr. Debs is handed a drink of water.)

How good the touch of the hand of a comrade is, and
water furnished by a comrade; as refreshing as if it were
the desert of life. And how good it is to look into your fa
afternoon (applause). You are really good looking (laugh
me, I assure you. And, I am glad there is so many
Your tribe has increased wonderfully since I first can
(laughter). You used to be so few and so far between
when you struck a place, the first thing you had to
to see if you could locate a Socialist; and you were
lucky if you struck his trail before you left town. If he ha
to be the only one in town, and he is still living, he is now r
as practical, and he holds the place of honor and he has lo
in the heart of all those who come after him. Now h
275 can't throw a stone in the dark without hitting a S
(laughter). They are everywhere in increasing nu
and what marvelous changes are taking place.

I went to Warren some years ago. It happened at the tim
ident McKinley was assassinated. In common with all other
plored that tragic event. There is not a Socialist, who woul
been guilty of that crime. We do not attack individuals. W
wreak our vengeance upon any individual opposed to our faith
have no fight with individuals. We are capable of teaching
who hate us (applause). We do not hate them; we know bet
would hand them a cup of water, if they needed it (app
There is not any room in our heart for hate, except for a syst
system in which it is possible for one man to achieve a trem
fortune doing nothing, while millions upon millions suffe
struggle and agonize and die for the bare necessities of lif
plause).

McKinley had been assassinated. I was booked to speak at
mouth. All of the ministers of Portsmouth met in a speci
sion, and they passed a resolution that Debs more than any
person, was responsible for the assassination of our beloved
dent (laughter). And it is due to what he was preaching th
responsible for this crime. And so all of these pious gentr
followers of the meek and lowly, as they believed, met and
must not be permitted to enter the city. And they had the ma
issue an order not permitting me to speak. I was all
276 out. And they wanted me to call the meeting off. I
there soon after, however. Soon after I was booked to

at Warren, where President McKinley's double cousin was postmaster. I went there and registered. I was only registered when I was ordered to leave the hotel. I was extremely undesirable that day. I was served with notice that the hall would not be open, and that I would not be permitted to speak. I sent back word to the mayor by the only Socialist who was permitted to remain in town—and he only remained because they did not know he was there—I sent word to the mayor that I would speak in Warren that night, according to the schedule, or I would leave Warren in a box (applause).

I went to the hall, and the Grand Army of the Republic had a special meeting, and in full uniform they all went to the hall and occupied the front seats, in order to pounce upon me and take good care of me if my speech did not suit them. I went to the hall and made my speech. I told them who was responsible for the assassination. I said: "As long as there is misery caused by robbery at the bottom, there will be assassination at the top" applause). I showed them that it was their capitalist system that was responsible; that impoverished and brutalized the ancestors of the poor, witless boy who murdered the President. Yes, I made the speech that night. When I left there I was still very undesirable.

I returned some years thereafter. It seems that the whole population of Warren was out. I was received with open arms
277 (applause). I was no longer a demogogue; I was no longer a fanatic; I was no longer an undesirable. I had become exceedingly honorable simply because the Socialists had increased in numbers and in power. Consequently, I had become something respectable—what a change from poor respectability! If ever I become anything more respectable, I will be quite sure that I have outlived myself (laughter).

Oh, it is the minorities who have made the histories of the world! They who have had the courage to take their places at the front; they who have been true enough to themselves to speak the truth that is in them; they who have opposed the established order of things; who have espoused the cause of the suffering, struggling poor; who have upheld, without regard to person- consequences—who have upheld the cause of righteousness; they have made the history; they have paved the way to civilization. Oh, there are so many who remain upon the popular side. They lack the courage to join a despised minority; they lack the fiber that endures. They are to be pitied, and not treated with contempt; they cannot help it. But, thank God, in every age and every nation there have been that few, and they have been sufficient; and they have lived; they have endured; and we, who are on earth today, are under obligation to them, because they suffered, they sacrificed, they went to jail; they had their bones broken upon the wheel; they were burned at the stake, and had their ashes scattered to the four winds by the hands of hate. We are under obligation to the-, because of what they suffered for us; and the only way we can cancel that obligation is
278 by doing or seeking to do in the interest of those who are to come after us (applause). And this is the high purpose of

every Socialist on the face of the earth. Everywhere the
mated by the same lofty principle; everywhere they have
noble ideal; everywhere they are clasping hands across the
line; everywhere they are calling one another comrades, t
word that springs from the heart and soul of unity; that l
blossom upon the lips; aye, the word "comrade"—getting
touch all along the battle line; and they are waging the
war of the working class of the world against the ruling
exploiting class of the world. They make mistakes; they
them all; we encounter defeats; they grow—they grow
through them all. They never take a backward step; the
the international Socialist never beats a retreat; they are
forward (applause). They are pressing forward here, the
where, in all of the zones that girdle this globe; everywh
awakening workers, these class-conscious proletarians, the
fisted children of honest toil; everywhere wiping out the
lines; everywhere facing the larger and nobler patriotism
where proclaiming the glad tidings of the coming eman
everywhere having their hearts attuned to the most sacred c
ever challenged men and women to action in all the histo
world. Everywhere moving toward Democracy; everywher
ing toward the sunrise their faces all aglow with the lig
coming day. These are the Socialists; these are
279 zealous, the most enthusiastic crusaders the world
known (applause). They are making history that
the horizon in the coming generations; they are bound up
cipating the human race. They have been reviled; they h
persecuted but they have been sufficient to themselves, pres
ward toward the height—aye, their triumph is now alread

Do you wish to hasten it? Join the Socialist party. D
for the morrow. Come now (applause). Enroll your na
your place where you belong. You cannot do your duty'h
You have got to do something yourself, and do it squarely,
yourself in the face while you are doing it; and you will
occasion to blush; you will know what it is to be a man or
You will lose nothing; you gain everything (applause).
do you not lose nothing but you are very apt to find someth
that something will be yourself. And you need to find yo
to know yourself (applause). You need to know that you a
something better than slavery and cannon fodder (applause
need to know that you were not created to work and to pro
impoverish yourself and to enrich an idle exploiter. You
know that you have a soul to develop, a manhood to sustai
need to know that it is your duty to rise above the anima
You need to know that it is for you to know something abou
ture, and about science, and about art. You need to kn
you are on the edge of a new world. You need to get in tou
your comrades; you need to become conscious of your inte
your power as a class. You need to know that you
280 to the great majority. You need to know as long as
ignorant, as long as you are indifferent, as long as

content, as long as you are unorganized, you will remain exactly as you are (applause). You will be exploited; you will have to beg for a job; you will get just enough to keep you in working order; and you will be looked down upon with contempt by the very parasite that lives out of your sweat and unpaid labor. If you would be respected, you have got to begin by respecting yourself (applause). Stand up, and look yourself in the face, and see a man for the first time. See how he looks, please.

Do not be in the predicament of that poor fellow that after he had heard a Socialist speak, he concluded that he ought to be a Socialist. The argument was unanswerable. He said: "Yes. All he said is true. I ought to join the party." But after a while he concluded that he might possibly incur the ill will of his boss, and lose his job. He said: "I guess I can't afford to take the chance." That night he slept alone. He was in conflict with his conscience, as he went to bed; and he dreamed a very troubled dream. Men always do when they are untrue to themselves. Socialists always go to bed with a clear conscience. He goes to sleep with his manhood, and he wakes and goes forth in the morning with his self-respect; and he looks the whole face in the world (applause and laughter) without a tremor, without a flicker. But this poor fellow who lacked the courage to do what his reason and his conscience commanded he should do—this poor fellow had a troubled dream. He woke,
281 and at midnight he bounded from his bed in a state of terror, for he said: "My God, there is nobody in this room." (Laughter.) And he was absolutely right (laughter and applause). No one! He was terror stricken. How would you like to sleep in a room with nobody in it? (laughter) It is an awful thing to be nobody. That is a state of mind to get out of—the sooner, the better.

There is a great deal of hope for Baker, Ruthenberg and Wagenknecht, but for the fellow that is nobody, there is no pardoning power. He is "in" for life. Anybody can be nobody, but it takes a man to be somebody.

To turn your back on that corrupt Republican party, and that still more corrupt Democratic party—the gold dust boys of the ruling class (laughter), yes it counts for something. To step out of those great, popular, subsidized capitalist parties, and get into a minority party that stands for a principle, and fight for a cause (applause). Make that change; it will be the most important change you have made in your life; and you will thank me to your dying day—or living day—a Socialist never dies—you will thank me for having made the suggestion. It was a day of days for me. I remember it so well. I passed from darkness to light. It came like a flash, just as great seething, throbbing Russia, in a flash, was transformed from the land of supreme darkness to a land of living light. There is something splendid in the prompting of the heart to be true to yourself, especially so in a crisis.

You are in the crucible today, Mr. Socialist. You are
282 going to be tried, to what extent no one knows. Of you are weak-fibred, that weakness will be sought out, and located,

And, if, through that weakness, you are conquered,
driven out of the Socialist movement. We will have
bye to you. You are not the stuff of which Revo
made. We are sorry for you (applause) unless you
an intellectual. The intellectuals, a good many of the
gone. No—no loss on our side, nor any gain on their

But, when discussing the intellectual phase of this q
always amused by it. It is the same old standard und
rank and file are judged. I fail to depend upon lead
of others, because they haven't got a thing of their own.
become of the men that are sheep unless they had she
them out of the wilderness into the land flowing w
honey? Oh, yes, "Ye are my sheep." In other words
mutton." (laughter) And if you had no intellectu
have no movement. They rule through their intelle
capitalistic party. They have their so-called leaders. I
lican and Democratic party you are not called upon to
is wholly unnecessary. The leaders do the thinking.
do the voting. They ride in the carriages, and you
mud, bringing up the rear, showing themselves cowards
to the rest of the intellectuals in the capitalist party.

system affects to have great regard for intellect
283 themselves credit for having superior brains.
tell them some time ago that the time would co
working class would rule. They said: "Never in the w
rule. It requires brains to rule." Implying that the
none.

We used to say that the people ought to own the
operate them for the benefit of the people. We ad
twenty years ago. They said: "You have got to have
the trains." And the other day McAdoo fired all the b
ter). So, haven't all the trains been coming and goin
time? Have you noticed any change since the brains
is a brainless system now. It is operated by hand (lau
a good deal more efficiently than it was operated by
(laughter). And this determines infallibly the quality
brains. It is the kind of brains you can get at a ver
figure at the market houses. There is not very much q
it. They have always given themselves credit with ha
brains. Aye, they have the brains of the fox; they ha
of the wolf; they have the shrewdness, the cunning o
but as for brains—brains, as representing intelligenc
lectual capacity, they are the most woefully ignorant p
face of the earth. Give me a hundred capitalists, just
them here in Ohio—give me my pick of this plutocracy
ask them a dozen simple questions about the history o
try, and I will show you they are as ignorant as unle

boys (applause). They know nothing of histo
284 ignorant of sociology; they are strangers to scien
know how to gouge; how to rob, and do it legally
always do it legally, for the reason that the class which h

to rob, upon a large scale, has the power to control the government and legalize their robbery. I haven't time to discuss this great question as extensively as I would like.

They are talking about your patriotic duty. Among other things, they are advising you to cultivate war gardens—cultivate a war garden. While they are doing this, a Government war report shows that practically fifty-two per cent of the arable, tillable soil is held out of use by the profiteers, by the land manipulators—held out of use. They, themselves, do not cultivate it. They could not if they would. They don't allow others to cultivate it; they keep it idle to enrich themselves; to pocket the hundreds of dollars of unearned increment. Who is it that makes their land valuable while it is fenced in and kept out of use? It is the people. Who pockets this tremendous value? The landlords. The landlords. Who is the patriot? And while we are upon the subject, I want you to think upon the term "landlord". Landlord, Lord of the land? This lord of the land is a great patriot. This lord, who professionally owns the earth, tells you that he is fighting to make the world safe for Democracy—he, who shuts all humanity out; and he who profiteers at the expense of the people who have been slain by multiplied thousands, under the pretense of being the great patriot he is—he, who is your arch-enemy; he it is that you need to wipe from
285 power (applause). It is he, it is he that is a menace to your loyalty and your liberty far more than the Prussian junker on the other side of the Atlantic ocean (applause). Fifty-two per-cent., according to their own figures. They tell you that there is a shortage of flour, and that you need to produce. We have got to save wheat that we can export more wheat for the soldiers who fight on the other side, while half of your tillable soil is held out of use by the profiteers. What do you think of that?

Again, they tell you there is a coal famine, now in the State of Ohio. The State of Indiana, where I live, is largely underlaid with coal. There is an inexhaustible supply of it. The coal is beneath our feet. It is within touch—all that we can possibly use. And here are the miners; they are ready to enter the mines. There is the machinery ready to be put into operation to increase the output to any desired capacity. And yet, only three weeks ago a national officer of the United Mine Workers issued and published an appeal to the Labor Department of the United States Government to the effect that of the six hundred thousand coal miners in the United States at this time, when they tell us of a coal famine—the six hundred thousand coal miners in this country are not permitted to work more than half time. I have been around over Indiana. I have been in the coal fields; I have seen the miners idle. In the meantime, scarcity of coal. They tell you that you ought to buy your coal right away. You may freeze to death next winter if you do not; and they charge you three prices for coal. Oh, yes, I
286 think you ought to do this if you vote the Republican or Democratic ticket (applause). Now, we have private ownership of the coal mines. And this is the result of private ownership of this great social utility. The coal mines are privately owned, and

the operators want a scarcity of coal. Why? So they can boost the prices indefinitely. If there was an abundance of coal, there would be too much coal. They make more money out of the scarcity of coal. So there is collusion between the operators and the railroads. The operators say there are no cars, and the railroad men say no coal. And between them they simply humbug, denude, defraud the people. There is the coal. Here are the miners. The coal has accumulated, the miners are idle and hungry. We Socialists say: "Take possession of the mines in the name of the people". (applause). Set the miners at work; give every miner that works all the coal he produces. In this system the miner goes down in a pit three hundred feet. He goes to work and mines a ton of coal. He doesn't own one solitary bit of it. That ton of coal belongs to some plutocrat who lives in New York, Vienna or Paris. There is where the owners are before the war is declared. Then when they get together on their book accounts, he gets a share as if he did the work. The owner lives in Europe, New York or Patagonia—that doesn't make any difference where he is. He doesn't have to keep at the work. He owns the tools, and he might as well own the miner. That is what you do for them as long as you vote the Republican or the Democratic ticket. You vote to have these miners without a job—corporation vassals and also paupers. But I'll tell you
287 we Socialists say, "Take possession of the mines; call the miners to the coal mines. Let the miners mine the coal—every ounce." He himself is entitled to the full value of his toil. They he can build himself a comfortable home; live in it; enjoy it; he can provide himself and his wife and children with clothes—good clothes—not shoddy; wholesome food in abundance, and the people will get coal at just what it costs to mine it.

Oh, that is Socialism as far as it goes. But you are not in favor of that program. It is too visionary. So continue to pay three prices for coal, and get your coal when winter comes, because you prefer to vote the capitalist ticket. You are still in the capitalist state of mind. It is a good deal like the Executive Lincoln said: "If you want that thing, that is what you will get to your heart's content." You will waken up; you will be raised up. A change is needed. Yes. Yes. Not of party, but change of system; a change from despotism to Democracy, wide as the world (applause). A change from slavery to freedom! A change from brutehood to brotherhood; and to accomplish this you have got to organize; and you have got to organize industrially. Not along the zig-zag curved lines laid down by Sam Gompers, who through all of his career has been on the side of the master class. You never hear the capitalist press speak of him except in praise and adul*t*ation. He has become a patriot. Oh yes, Gompers, who was never on the unpopular side of any question or of any proposition; always conservative satisfied to leave the labor problem to be settled at the banquet board with
288 Elihu Root, Andy Carnegie and the rest of the plutocrats. When they drank wine together and smoked scab cigars, when the labor question was settled (laughter).

Oh, yes, while they are praising Gompers, there is the I. W. W. You find very few men who have the courage to say a word in behalf of the I. W. W. (applause). I have. (Applause). Let me say here that I have very great respect for the I. W. W. More than I have for their infamous detractors (applause).

Listen. There is a pamphlet just been issued called "The Truth about the I. W. W." It has been issued, after long investigation by five men, all of whom are known to the Socialists; all of whom are men of unquestioned standing in the capitalist world. At the head of this is Prof. John Graham Brooks of Harvard University; John A. Fish of the Survey of the Religious Organization of Pittsburgh; and Mr. Bruer, the Government investigator. Five of them conducted an impartial examination of the I. W. W. To use their own words, they have followed its trail; they have examined into its doings beginning at Bisbee, where the patriots, the rotten business men, the arch-criminals, deported twelve hundred men, working men, charging them with being I. W. W. When they were nothing of the kind. It is only necessary to label a man "I. W. W." to have him lynched, just as they lynched Praeger, an absolutely innocent man—innocent as we are. Just simply started the rumor because he bore a German name. He was a Socialist but he had never uttered one disloyal word, only the rumor was started
289 that he was disloyal, which was made up. Just think of the crime for which the poor capitalist party is responsible. But, when the war press says war, you may rest assured that every pulpit in the land will say war. And when Wall Street says peace, they will all say peace, because they are simply instruments of Wall Street. The pulpits in every age have been on the side of every ruling exploiting class, and not on the side of the people. That is why the I. W. W. is infamous.

Look into this pamphlet. Don't take the word of the Wall Street press for that. Get this pamphlet of truth about the I. W. W. by five men who are incorruptible, uncontaminated—five men who dared to want to know the truth and tell the truth to the American people, with the truth in this pamphlet. They say that the I. W. W. in all of its career never committed as much violence against the ruling class as the ruling class has committed against the I. W. W. (applause).

You are not reading any reports about the trial at Chicago, are you? They used to publish extensive reports when the trials first began, and they told the people about what they proposed to prove about that gigantic conspiracy against the Government. And the trial has gone on now until they have exhausted all their testimony, and they have not proven violence in a single, solitary instance. Not one. They are utterly lacking in testimony; and yet, one hundred and twelve men are now on trial, after lying in jail, for
290 months and months, without the shadow of a crime on them—simply charged with belonging with the I. W. W. This is enough to take a man and send his soul to hell for. Just speak about the I. W. W. That is all; with no reason for it, the object to the I. W. W. The I. W. W. are fighting the fight of the bottom dog

(applause). And for the reason that Gompers is loved and glorified by Wall Street, Bill Haywood is despised and denounced by the same gang.

What you need is to organize, not along curved lines, but along revolutionary industrial lines (applause). You will never vote in the Socialist republic. You are needed to organize it; and you have got to organize it in the industries—unite in the industries. The industrial union is the forerunner of industrial Democracy. In the shop is where the industrial Democracy has its beginning. Organize according to the industries, and minimize all the Gompers. Get together. United, very often your power becomes invincible. Organize to get up to your fullest capacity. Organize. Act together. And when you organize industrially, you will soon learn that you can manage industry as well as operate industry. You can soon find that you don't need the idle rich for your masters. They are simply parasites. They don't give you work. You give them jobs taking what you produce, and that is all. Their function is to take what you produce, and that is all. Their function is to take what you produce. You can dispose of them. You don't need them to depend upon for your jobs. You ought to own your own tools; you ought to control your own jobs; you ought to be industrial free men instead of industrial slaves. Organize industrially. Make the organization complete. Then unite in the Socialist party.

291 Make your organization economically complete. Vote as you strive; get into the party; stand with the party all of the days in the year. See, see that your party embraces the working class. It is the only working class party, the party that expresses the interest, the hope, the aspirations of the toilers of the world. Get into the party. Get your fellow workers into the party, too. Yes, especially this year—this historic year; this year in which the forces will clash as they never clashed before. This is the year that calls for men and women who have the fiber; who have the courage, the manhood and womanhood. Get into the party. Take your place in the ranks. Help to inspire the weak and to strengthen the faltering; and do your share to speed the coming of that brighter and better day for us all (applause). Then when we vote together and act together on the industrial pledge, we will develop the supreme power of the one class that can bring permanent peace to the world. We will have the courage. Industry will be organized. We will conquer the public power. We will transfer the title deeds of the railroads, the telegraph lines, the mills, the great industries—we will transfer them to the people; we will take possession in the name of the people. We will have industrial democracy. We will have Socialist Democracy; we will have political democracy. We will be the first free nation, whose government belongs to the people. Oh, this change will be universal; it will be permanent; it looks towards the light; it paves the way to emancipation.

And now for all of us to do our duty. The call is ringing

292 in our ears. If you do, it is your duty to respond; and you cannot falter without being convicted of treason to yourselves. Do not worry, please; don't worry about the charge of treason to

your masters; but be concerned about the treason that involves yourselves (applause). Be true to yourselves, and you cannot be a traitor to any good cause on earth.

Yes, we are going to sweep into power in this nation, and in every other nation on earth. We are going to destroy the capitalist institution; we are going to recreate them as legally free institutions. Before our very eyes the world is being destroyed. The world of capitalism is collapsing; the world of Socialism is rising.

It is your duty to help to build. We need builders of industry. Builders are necessary. We Socialists are the builders of the world that is to be. We are all agreed to do our part. We are inviting—aye, challenging you this afternoon, in the name of your own manhood, to join us. Help do your part. In due course of time the hour will strike, and this great cause—the greatest in history—will proclaim the emancipation of the working class and the brotherhood of all mankind. (Thunderous and prolonged applause)."

Cross examination by Mr. Stedman:

This was a public meeting; I was hired to report the speech; there was no direction given to me to eliminate or change or modify any portion of it; I have seen the report made by Mr. Steiner, and compared it; my report is quite different from his; the difference
293 is shown here by a comparison of my notes and his which have been put together and I would estimate that he has about three-fourths of the speech; in other words, about twenty-five to thirty per cent. of the words that he didn't get; it is thirteen years since I began to study shorthand; I reported about seven years; I have reported speeches and all kinds of court work; taking a speech is the most difficult work to be performed by a reporter, yes, sir; because of the continuity of the work; no chance to rest; you cannot rest as between a question and an answer; there is a material difference between my report and his report.

Q. Let me call you- attention to one or two paragraphs in this report. You refer to organizing the curved lines. Is it possible that would mean craft lines instead of curved lines?

A. Well, I have it vocalized. It is "curved" in my notes. I could say this, however,—that it is common for speakers to use a wrong word and think they are using the right word as Mr. Debs did in his speech; and it is also possible that I might have gotten the wrong word here in place of the right word. Experts do not claim to be perfect. The- simply claim to be highly skilled.

Redirect examination by Mr. Wertz:

I said I had twenty-five to thirty per cent. more than Mr. Steiner has in his report; the speech that I read to the jury embodied substantially everything that Mr. Steiner said, as well as showing any additional that I have, and more—that he has some things in it that I have not.

294 Whereupon the Government offered in evidence t
speeches heretofor- marked for identification Governmen
Exhibit No. 8, and the same was received in evidence without o
jection, and is attached hereto and made a part of this record.

295 Thereupon, the Government, further to maintain the issu
on its part to be maintained, called as a witness C.
RUTHENBERG, who, being first duly sworn, testified as follows:

Direct examination by Mr. Wertz:

My name is C. E. Ruthenberg; I was present at the *at the* conve
tion at St. Louis, Missouri, which adopted or presented a minorit
and a majority report, about the sixth day of April, 1917; from
cursory examination of Government's exhibit No. 1, pages 670, 67
and 672, I should say it is the majority report of the conventio
committee; I signed *t*hat majority report; Government Exhibit N
2 is the member's individual ballot, on which the members of th
Socialist party voted in regard to the majority and minority repor
Q. The majority report on that member's ballot, is that the sam
majority report as contained in Government Exhibit No. 1 page
70, 671 and 672, which you testified you signed?

Mr. Stedman: I object.

A. I would not be able to answer without referring to both care
fully.

The Court: You may examine them, Mr. Ruthenberg.
The Witness: After a hurried reading, I would say that they ar
the same, with the exception of the fact, on page 672 there are cer
tain recommendations at the end that do not appear in this report—
in the ballot.

Q. Now, the majority report that appears on the ballot, you may
state whether that is what is recognized as the St. Louis convention
platform?
295 A. It has generally been referred to as such.

Cross examination by Mr. Stedman:

Mr. Debs wasn't there; he was not a member of the committee;
that was recommended to the convention by a committee and by the
convention ordered to be sent out by the national secretary; it was
entitled, "War Program." There was a platform attached at the
same time; the platform was published and issued.

Redirect examination by Mr. Wertz:

I do not know from personal knowledge that the majority report
was afterwards approved by the majority of the Socialists in the
country; I know it as a general report.

Mr. Wertz: I now desire to offer Government's Exhibit No. 2 in
evidence.

Mr. Stedman: If your Honor please, I am objecting to either Government Exhibit 1 or 2 for the following reason: If I have a conversation with a man and I refer to a document and he unequivocally affirms the contents of that document, and my conversation with him is such as to identify it in its entirety, it might possibly be permissable to offer it in evidence to show the sentiment which I have at the time the instrument was called to my attention and the conversation took place in reference to it. If, however, I should show a man a document, and I would say in that conversation, "What is your opinion of that document?" and he says "at the time it was adopted I approved it," and that time is one
297 year or longer prior to the date of his conversation—" "at the time it was adopted, I approved it, but at the present time I think it should be modified"—and the first statement of Miller was in substance, and the last was "should be restated in detail"—where there is no unqualified approval of it, where the approval is so qualified that you cannot say that those portions which the Government might take exception to were affirmed, then it does not show the state of mind of the individual to whose attention it is called. We cannot say from the evidence of the present time what portion, what paragraph, or what section Mr. Debs endorsed in the conversation with Mr. Miller.

Mr. Wertz: I object to that statement, your Honor.

The Court: Counsel may proceed.

Mr. Stedman: And in view of that, as we cannot say that, and that is an affirmative proposition for the Government, it is incompetent to show the state of mind of the defendant. As to the question of intent, it is wholly inadmissable for this reason: An intent goes to the method of accomplishing a result. If I say to a man that I propose to circulate a document to increase burglary or I am presented with a document which proposes a plan to increase burglary then it may be used to show intent. In other words the method pursued to accomplish these objective propositions. The con-
dition of mind is one thing, that is, to show that a person
298 might desire to do a thing. It is largely a question of motive, and I understand motive is not an issue in this case. The question of intent is the means used to accomplish the execution of the motive, to carry it out. If I state my plan and I state it repeatedly, that is admissable to show intent. If I say I am going to kill a man with a revolver and I introduce it to show what? Intent—method of accomplishing the execution of the individual whose life I wish to destroy. In this case there is nothing shown by the evidence that Debs intended at the time, in making this speech, to use the speech, to use the utterances, to use the phrases, to use the logic for the purpose of accomplishing the crime charged; and for the purpose of intent. I submit that it is clearly incompetent for the purpose of showing the condition of mind of the defendant. It is incompetent for the reason I am stating, because there is no unqualified approbation or approval of the contents of that document. On the contrary, the evidence shows that there was not such an approval.

The Court: I am of the opinion that the objection to the in
duction of the so-called St. Louis platform or War Program of
Socialist party is not well taken upon either ground. I do not
it necessary to proceed further in making that ruling than to
rule. I therefore will overrule your objection to the admission
evidence of Exhibit No. 2, and allow you, of course, y
299 exception.

Mr. Stedman: Exception.

(Thereupon Government's Exhibit No. 2 was read to the jury
Mr. Wertz.)

Mr. Wertz: I desire to offer Government's Exhibit No. 1, if
Court please.

The Court: What is the difference between No. 1 and No. 2?

Mr. Wertz: Only this difference: Mr. Ruthenberg signs Exhi
No. 1 and he does not sign Exhibit No. 2.

The Court: If that is the only reason for offering it, I do
think it should be received. It would be merely an encumbran
to the record to receive No. 1 and, in addition to that, there is oth
matter connected with No. 1 that has no relation to this case, th
it would be difficult to separate from the majority report,—so-call
Socialist Program—as therein printed.

300 Thereupon the Government, further to maintain the issu
on its part to be maintained, recalled as a witness CLYDE
MILLER, who further testified as follows:

Further direct examination by Mr. Wertz:

I recall the day when Mr. Debs was arrested on Cleveland; it w
about two weeks, exactly two weeks, I think after he made his spee
in Canton; on the thirtieth of June, on a Sunday; I had a talk wit
him at this later day, on the day of his arrest; that talk was in th
building, in the Cleveland Federal building;

Q. Will you state to the jury what you said to Mr. Debs, an
what he said to you, in regard to the St. Louis Anti-war platform

Mr. Stedman: I want to object. It is leading.

The Court: Well, what he said to him on that subject, I think
that is proper. (To the witness:) If anything was said to you a
that time on that subject by Mr. Debs, tell us as exactly and as lit
erally as you can recall, what it was.

The Witness: I asked Mr. Debs, following his arrest here, if h
had any comment to make for the press. He said he had nothing
to say at the time. That was going up in the elevator in the Fed
eral building. I asked him if he still stood by his statements to me
two weeks before at Canton, to the effect that he did not repudiate
the Socialist platform and the principles therein contained. He
said, "I do not, and, if necessary, I will die for those principles."

Following that, Mr. Debs was in conversation with a number
301 of us newspaper men and myself in the marshall's office in
this building, all of us asking him questions, mostly bearing

on his career. In those questions he told us of his part in the organization of railroad workers, and his part in the Pullman strike of 1893, of his previous arrest and the serving of a sentence in 1893——

Mr. Stedman: I object to that.

The Court: Yes; that does not relate to the question. If he said anything further in the second conversation in reference to the so-called St. Louis platform—I will adopt that expression for convenience—you may state that, but not the history of his life and his other activities.

The Witness: We came back to that only incident-ly. Mr. Debs was very pleasant and genial and I had occasion to say to him that I was greatly pleased with his courtesy extended to me, and I was exceedingly sorry that his views on this platform matter were so different from the views of the rest of us. And he said, "Well, you may be right and I may be wrong." "I am glad," he said, "You don't get angry about upholding your own views against mine. I may be quite wrong in this, but I don't see it now. I don't claim to be infallible."

Q. Do you recall anything further in regard to the St. Louis platform?

A. That was all, sir, that I recall; that was the last time I spoke to Mr. Debs on that subject.

302 Cross examination by Mr. Stedman:

Q. You are quite sure that the language which you have quoted and used by you and Mr. Debs is correct in substance as you have just stated?

A. I am quite sure, sir, that it is correct in substance. Mr. Debs asked not to—he did not want a statement in the press, and I made no notes at the time, in deference to his wishes.

Mr. Stedman: I wish to move to strike out the evidence unless the St. Louis platform is offered in evidence.

The Court: The objection will be overruled.

Mr. Stedman: Exception.

Redirect examination by Mr. Wertz:

Q. I hand you Government Exhibit No. 2 and ask you to look at what is known as the majority report (handing paper to witness). You have already testified that this was what you and Mr. Debs discussed at the Canton meeting?

A. Yes, sir.

Q. Was this the same subject you discussed with Mr. Debs on the elevator, or was it some other subject?

Mr. Stedman: If your Honor please, I wish to object to this.

The Court: I sustain the objection. The testimony of the witness will stand. The witness has stated what transpired between him and Mr. Debs in the elevator. Your motion to strike out the witness's

testimony will be overruled, and you may have y
303 ception.

Mr. Stedman: If your Honor please, when I ma
objection, I stated, "the platform". May I have it also th
incompetent?

The Court: Yes, you may have the grounds that it is als
*el*ant and incompetent.

304 Thereupon the Government, further to maintain th
on its part to be maintained, called as a witness,
TRINER, who, being first duly sworn, testified as follows:

Direct examination by Mr. Wertz:

My name is Joseph Triner; I live in Chicago, Illinois; m
ness or occupation is special agent, United States Naval Intel
Office; I have been in the employ of the United States gover
for a period of two years, not in the same department, but t
partment of Justice; I have been with the Naval Intelligence
for three months; I know the defendant, Eugene V. Debs;
known him about six months; I was present at the Imperia
at 22409 North Halsted Street, Chicago, Illinois; Mr. Euge
Debs spoke at that time;

Q. Do you recall the subject of his speech?
A. Yes, sir.
Q. What was the subject of it?
A. It seemed to be a discussion on the St. Louis platform.

Mr. Stedman: I move that the answer be stricken out.
The Court: Overruled.
Mr. Stedman: Exception.

Q. Do you refer to the St. Louis Anti-war platform?

Mr. Stedman: That is objected to as calling for a conclusion.
The Court: I sustain the objection.

Q. What was taking place at the Imperial Hall in Chica
that time?
305 A. It seemed to be a national conference of state
taries of the National Socialist party; Mr. Debs was pr
Q. What did he say in substance?

Mr. Stedman: I want to object for three reasons: first, it ap
that this was an address of state secretaries, or a discussion o
matter which was before him for consideration, and not, in a
eral sense, a public declaration. Second, that it is remote fro
time of the address—that it is remote from the time of the ad
delivered in Canton; that it is competent and immaterial.

The Court: As to the grounds upon which you place it,
Stedman, the view of the court is against you. I will overrule
objection upon those grounds. After I hear it, if I find it has
sufficient identity or pertinency, I will withdraw it, or, if it

writing so I can look at it before it is introduced, I will be glad to see it and pass upon it.

Mr. Stedman: I think counsel has it in writing.

Q. What did he say on that subject?

A. Mr. Debs said: "A working man has no place in a capitalist's war such as this. The only war in which I have any interest is that of the workers against the capitalists. They may call me a disloyalist and brand me a traitor, but I shall stick to my principles. The master class pretend to wage this war for democracy, but by persecuting us they have branded this pretention a lie. I honestly hope that there may be no one present here today that will want
306 to change the party's former attitude toward the war."

The Court: That is all you recall on that subject?

The Witness: That is all; yes.

Mr. Stedman: I wish to renew my motion, now to strike out.

The Court: The motion will be overruled, Mr. Stedman.

Mr. Stedman: Exception.

Cross-examination by Mr. Stedman:

I took it in long hand; yes, sir; I wrote it out in longhand, I have a copy of it here; it is just on scratch paper that I happened to take out of my pocket; there was a stenographer there; for the Chicago Examiner, working in co-operation with the United States Naval Intelligence; it was taken in shorthand; I have not seen the transcript; he never showed it to me; but what I am stating now I am stating from my recollection of what took place at that time; that is my independent recollection; I have lived in Chicago all my life; I arrived at the meeting at about 10 o'clock in the morning; the reporter from the Chicago Examiner by the name of Mr. Chapman, was with me; that is on the second floor of the Imperial Hall; I walked up a flight, I think, maybe two flights; I don't remember accurately whether it is one or two, no sir; located in the hall on the left hand side of the hall, if I remember rightly. There is a sort of a reception hall. There is two or three halls—three rooms, I think, in that hall. I just don't recollect how many were
307 present; there were over ten, I think. I am not sure; I couldn't go on record as saying how many were there. I couldn't say whether there were over twenty; there were approximately over ten. There wasn't a couple of hundred, there was over twenty there, I think. There were tables there; yes I think there were persons sitting at the desks; those were state secretaries; I think it was that body that he addressed; I don't know who introduced him. I just entered the hall. I was called into the hall by the editor—that is, the reporter, Mr. Chapman; I just listened to Mr. Debs, and then I reported to Headquarters; I didn't hear anybody else speak that day; I was there, I should say, about an hour, but I spent most of the time—up to the time that Mr. Debs spoke was my second entrance to the hall. I first came in about ten o'clock. There didn't seem to be very much doing, and I went downstairs and told the reporter to call me when there was anybody spoke, and he called

me when Mr. Debs began, and when I went to the tele
called up headquarters, and then told me to come in and
the substance of the speech.

The Court: As I understand you, you listened to n
speeches or proceedings except Mr. Debs' remarks.

The Witness: Yes, your Honor.

The Court: What is your employment?

The Witness: I am on special detail, your Honor, for
States Department of Justice, and I am on inves
308 the outrage that we have there—the bomb outrag

The Court: At the Federal building?

The Witness: At the Federal building, yes, your Hono

The Court: You came here for this trial?

The Witness: Yes, sir.

Q. How long did Mr. Debs talk?

A. Oh, I should say a matter of about ten minutes, I
have a memorandum of my notes; certainly you may
don't write shorthand; as I entered the hall he was spea
the substance of it was—the first thing that I gathered wa
has no place—a working man has no place in a capitalist
as this." He did not say what the party's attitude was to
to my knowledge, nobody else said it; He did not say he
party would not change its attitude toward war; he said he
hoped that there was no move either—he said he earnes
there was no move made to change the party's forme
toward war—I read this memorandum a matter of half an
I don't know whether the word "former" is in there. Th
I wrote at the time I took it down; the words "Former att
not there.

The Court: What is there, Mr. Triner?

The Witness: "By anyone here to change the party'
toward the war," your Honor.

Q. You are depending on what was said there by what
in writing there?

A. In conjunction with my memory.

309 Q. Will you now restate just what was said there
take that slip once more?

Mr. Wertz: If the Court please, I object.

Mr. Stedman: I want to test his memory.

The Court: No; that is not a test of his memory.
That is a test of whether a man can read a paper over a
it or not.

Mr. Stedman: Exception.

Q. How far were you sitting from Mr. Debs?

A. Oh, I should say twenty feet; I had no difficulty in
in. I think I am well known. There was a reporter pres
me; it was taken in short hand, and the substance was tr
and furnished to me and I furnished it to our office, an

filed; the typewritten portion that was furnished is in my pocket I have a copy of the typewriting; certainly, you may see it; ther was a person who took the speech down in shorthand there; h name was Mr. Chapman; that was taken by him and given down— that was given to me by him. You understand, counsel, that w had this reporter take the national conference in shorthand an give to us what he considered was of importance to the governmen

The Court: That was all that Mr. Chapman ever transcribed an gave to you?

The Witness: That was all that he considered important.

The Court: That was all that he transcribed and gave to you?

The Witness: Yes.

310 Q. And you don't know about the transcribing of an more of this speech?

A. I do not.

311 Thereupon the Government, further to maintain the issu on its parts to be maintained, called as a witness EDWARD A. EVANS, who being first duly sworn, testified as follows:

Direct examination by Mr. Wertz:

My name is Edward A. Evans, I am a soldier just now; I an assigned to Camp Taylor, Kentucky; the sixteenth day of June 1918, was the Sunday I was in Canton; I was at various places among others at the park there—I forget the name—where th Socialists' picnic was being held; it was Nimisila park; yes, sir I heard several speak at Nimisila park that day; I heard a Mr Prevey, I believe, and Mr. Debs made the principal speech; m age on that day was twenty six years old; I had registered in th selective draft act about a year; from memory I cannot tell th jury what Mr. Debs said on that occasion. I have some notes tha I took that day.

Q. Will you turn to your notes and refresh your memory an then tell the jury what you remember hearing Mr. Debs say.

A. Mr. Debs said the Socialists—he was speaking of certain Socialists—he said, "They are paying the penalty for their devo tion to the cause of the working class. They have come to realiz it is extremely dangerous to exercise the right of free speech in country that is fighting to make the world safe for democracy. He said, "I must be extremely careful what I say, and more carefu how I say it." He said, "They may put members of the Socialis party in jail but they can't put the Socialist movement i

312 jail." I think at that time—I have not made a referenc in my notes—but I think he was speaking of Mr. Ruthen berg in jail down there, he said, "They are paying the penalty al men have paid for seeking to better the conditions of mankind What I say amounts to little; what I see here is exceedingly im portant. He said, "Keep four-square with the principles of the in ternational movement. I do not seek refuge with the popular sid

of the public questions. I have long since learned to
the popular side." He said, "Attempts have been mad
age us, to make it appear that we are divided among ou
have no need to be discouraged, we are on the eve of
triumph of the history of the Socialist party. I am pro
enberg, Wagenknecht, and Baker. They are in the work
and we are here for them," he said. "Are we opposed to P
itarism? We have been fighting it from the day the So
ment was born, and we are going to continue fighting i
wiped from the face of the earth." He said, "Don't
that all the junkers are confined to Germany. It is
refuse to be exploited by the junkers in the United State
brand us as disloyal. In every age the tyrant, the ex
wrapped himself in a cloak of patriotism, and religio
He said, "We are traitors, we are disloyal to the real tra
country. And the gang out on the Pacific coast tried to
Mooney against the protest of the whole civilized worl
is an innocent as I am of the crime with which he i
313 Then he spoke of Kate Richard O'Hare, and of, I b
Stokes. He said, "The United States, under the rul
racy, is the only country in the world that would send a w
penitentiary for exercising her inalienable right of free
that is democracy, let them make the most of it. E
federal judge holds his position, his tenure, through th
corporate capital. They are on the bench to serve the in
put them there." He said, "I hear your heart beat in
the Bolshevik of Russia. They have laid the foundat
first real democracy on earth." Speaking of the Russian
he said, "The first act of the revolution was to proclaim
peace throughout all the earth. They appealed for p
nations, to send representatives to a conference to lay d
terms that would be acceptable from the stand-point of
Was there any response from this country or from the A
the slightest." He said, "I have copies of treaties"—w
recall, he said were obtained by the Bolshevik from th
archives of Russia, showing that the purpose of the
exactly the same as the purpose of the Central Powers—
and dismember their enemies. He said, "The master
always declared war, the subject class has always fought t
one has all to gain and nothing to lose, and the other ha
to gain and all to lose." Speaking of Mrs. Stokes, he s
trial was a mock trial with a packed jury and a corporati
the bench. If the war was over tomorrow, all of
314 doors would be open and the prisoners, Socialists,
W. members would be free." Speaking of Samuel
he said, "Mr. Gompers thought he was settling the labo
by eating and drinking with capitalists, and that Mr. Go
mistaken in his ideas. He said, "Very few men dare to sa
word for the I. W. W. but I do. The capitalist press a
is responsible for the murder of Praeger, an absolutely

man. The I. W. W. is fighting the fight of the bottom dog. the very reason Gompers is loved by Wall Street, Bill Hayw hated by Wall Street." And as I remember, he ended his a in something this way: "Join the Socialist party today; you to know that you are fit for something better than slaver cannon fodder." Those are about all the notes I made o speech that day.

The Court: That is all that you remember of what you there at his speech?

The Witness: Yes, sir; I don't recall definitely anything than that.

Q. How many people were present in that audience?

A. Well, I should estimate there were something like five dred. I didn't make a very careful attempt to estimate, but a large crowd. There were all ages there; very young peopl very old people; yes, sir; there — quite a few young men a there about my age; Mr. Debs made a very vigorous speech; applauded frequently by the audience; it aroused consid enthusiasm among the hearers, I think, as to decor
315 I noticed an omission that was very—that I marke ticularly; there were no particular decorations. I b there were no flags on the band stand.

Cross-examination by Mr. Stedman:

To the best of my knowledge, it is a public park; yes, sir; I it belongs to the town; I do not know whether Mr. Debs ha thing to do with the arrangements of that meeting; I don't who arranged the decorations; my business is newspaper re for the Cleveland Press; I was acting as reporter at that time; mustered into the service about a week ago; a week ago tom that was considerably after I heard the speech; yes.

Thereupon the Court adjourned until Wednesday, Septemb 1918, at 9:30 o'clock A. M; whereupon the following proce were had:

316 Thereupon the Government, further to maintain the upon its part to be maintained, called as a witness, MILLER, who being first duly sworn testified as follows:

Direct examination by Mr. Wertz:

My name is B. C. Miller; I am clerk of the United States Court for the Northern District of Ohio; I have been clerk United States District Court since January 1st 1912; I know Baker, C. E. Ruthenberg, and Alfred Wagenknecht.

Q. Examine your records and tell the jury when they w trial in this court for the offenses for which they are now c in the Stark County Workhouse.

Mr. Stedman: I wish to object to this method of proving. The record is the best evidence.

The Court: He is getting to the date of it.

A. I have the original journal entry here that gives it. July 16, 1917; it was about that time, yes, sir, within a few days. I have the indictment upon which they were tried, and also the final entry in this case.

Mr. Stedman: The entry of what?

Q. I mean the judgment of conviction and sentence.

A. There is the verdict; there is the entry of the verdict; there is the motion for new trial; motion to arrest judgment; and sentence. This is the warrant to convey.

Mr. Wertz: I desire to offer in evidence Government's Exhibits 9, 10, 11, 12, and 13 respectively.

317 Mr. Stedman: I object to the first because there is no evidence showing specifically that the defendant knew the contents of this instrument, and there is no evidence that he had brought home to him in any way the contents of No. 10, No. 11, No. 12, or No. 13. And unless there is some evidence showing that he knew the contents of these instruments it would be incompetent.

The Court: The objection will be overruled and I allow you an exception.

Mr. Stedman: I would like to add to it that it is incompetent to show a condition of mind. It is incompetent to show an intent; that it is not corroborative of the address charged or set forth in the indictment, and that the address in the indictment does not refer to specific, or designate any portion of the contents, context, or purpose of the pleadings offered in evidence in this case; and that the verdict certainly was not referred to. The sentence is not involved at all, and a knowledge implied and attributed to the defendant as a cause for which those parties were placed on trial—I think it is incompetent and irrelevant in each of the respective counts which are now before the court in this trial.

The Court: The objections will all be overruled and exception allowed.

Mr. Stedman: Exception.

(Thereupon Government's Exhibits 9, 10, 11, 12, and 13 were read to the jury by Mr. Wertz.)

318 Mr. Stedman: I move to strike the Exhibits from record on the ground that they do not appear to be a complete record of the case.

The Court: Overruled.

Mr. Stedman: Exception.

Cross-examination by Mr. Stedman:

Q. Is this a complete record in this case?

A. No, sir.

Mr. Stedman: I wish to renew my motion to strike out.

The Court: Overruled.

Mr. Stedman: Exception.

Mr. Wertz: I offer in evidence Government Exhibit No. 14.

Mr. Stedman: I want to urge the same reason for an objection to that which I urged to the offer of the indictment in the Ruthenberg case. I wish to add to it further that I am objecting on the ground that there is no evidence, no record produced showing a termination of that case. If the Court will permit me to go outside of the record for the statement, I will say that it has not been terminated.

The Court: I will take that as a fact; in other words, I will take it as a fact that there are error proceedings still undisposed of and pending, in that case.

Mr. Stedman: Upon that I am objecting to it, for the purpose of proving a charge as a matter of record, not the fact that the
319 charge was made, but that the charge has not been sustained. And in addition to the point which I have made, to the effect that the actual charge which was made has not been shown to have been within the knowledge of the defendant.

Mr. Wertz: If the Court please, I would like the record to show that we are offering these merely to show the intent with which this man made the statement.

The Court: I am not so sure that it will be so limited as that. They are necessary to be introduced in order that some aspects of the address at Canton would be understood as intelligible. The objection as made by Counsel will be overruled and an exception may be allowed. The record as tendered shows a conviction on the indictment, and the imposition of sentence. That conviction has not been as yet reversed, annulled or set aside. It is still in full force and effect. So your objection will be overruled, and your exception may be noted.

Mr. Stedman: I want to take exception to the Court's statement of the fact, on the ground that I find no evidence in this record showing whether any appeal or final adjudication, passed in the Kate O'Hare case has been, as a matter of fact, either reversed or affirmed, and further, that it is incompetent upon the basis of showing intelligently the character of the address made by Mr. Debs with reference to that, because there is no evidence that the
320 hearers knew the actual facts to which he was addressing himself or that they had any greater information than he gave in his address.

The Court: The objection will be overruled upon the additional grounds urged, and exception allowed. I deem it, however, proper that the record shall show that Counsel for the Defendant, before the court ruled upon the further motion, stated professionally that the proceedings had not been finally terminated, and that error proceedings were still pending.

Mr. Stedman: Exception.

Mr. Stedman: I think I must have misunderstood. I thought you were overruling in the case of Kate O'Hare.

The Court: I was ruling on the one in the case of Rose Pastor Stokes.

Mr. Stedman: I want to make a further objection that at the time the charge was made against the defendant in addressing a meeting at Canton, the law under which Mrs. Stokes was tried, in the form, manner and language as existing at the time of the address—that she was indicted under an Act, tried under an act which was amended, and as in force and effect was different than on the date of the address charged in the offense here.

The Court: The objection will be overruled.

Mr. Stedman: Exception. I wish to renew my motion to strike out for an additional reason which appears from the record that the case is undisposed of by a final order and judgment, and that a statement either approving or disapproving should not
321 be received against the defendant, because it has not been judicially determined finally that an offense was committed. Therefore the approval of the offense charged, or the disapproval of the act charged in the indictment——

The Court: I think that was already made in substance by you and I expressed my opinion with reference to it then. I will overrule your objection and allow you an exception.

Mr. Stedman: Exception.

Mr. Wertz: I offer in evidence Government Exhibit No. 15.

Mr. Stedman: I wish to make the same objection to this which I have made heretofore, calling your attention to the fact that apparently there is a bill of exceptions filed which becomes a part of the record, and that this record is incomplete in that as well as obvious orders which have been omitted.

The Court: The objection will be overruled and exception will be allowed.

Mr. Stedman: Exception.

(Thereupon Government's Exhibit No. 15 was read to the jury by Mr. Wertz.)

Mr. Wertz: Now, I desire to offer Government's Exhibit No. 16 and 16-A.

Mr. Stedman: We object.

The Court: I am inclined to sustain your objection to that, for the reason that on the 16th day of June, 1918 there was a
322 trial in progress on that indictment under a plea of not guilty. At that stage of the proceedings the presumption then was, in law, that the defendants were innocent. That presumption has not been overcome and has not been removed, and the subsequent history and procedure of that trial, therefore, I do not think becomes important or relevant, and to admit a document in evidence in that state of the case, would be, it seems to me like admitting in evidence a newspaper report bearing upon the general history and news and copy for the day. To admit it, I think, would be confusing and I can conceive that it might be unwarrantable and prejudicial to the defendant. That is the state of my mind, Mr. District Attorney, as to your exhibit No. 16. I will not rule in accordance

with that impression, however, without giving you the opportunity to be heard, if you desire to be heard.

Mr. Wertz: If the Court please, we will take the matter up a little later after the morning recess.

The Court: You withdraw the offer, then, for the present?

Mr. Wertz: Yes, Now I desire to offer, if the Court please, and to read to the jury, what is known as Public Resolution C-1 Sixty-fifth Congress, S. J. Resolution 1, known as the War Resolution contained in the United States Compiled Statute, temporary Supplement of 1917.

The Court: Of course, the Court takes judicial notice of that, and so does the jury. But what the Court and jury may
323 judicially know, and what may be the actual state of opinion are often different things. So I will let you read it for the purpose of refreshing my judicial knowledge.

Mr. Wertz (reading): "Sixty-fifth Congress of the United States of America. At the first session given and held in the city of Washington on Monday the second day of April, 1917. Joint resolution declaring that a state of war exists between the Imperial German Government and the Government and the people of the United States, and making provision to prosecute the same.

Whereas the Imperial German Government has committed repeated acts of war against the Government of the people of the United States of America: Therefore be it resolved by the Senate and House of Representatives in Congress assembled, that the state of war between the United States and the Imperial German Government which has thus been forced upon the United States is hereby formally declared; and that the President be and he is hereby authorized and directed to employ the entire naval and military forces of the United States, and the resources of the government to carry on war against the Imperial German Government; and to bring the conflict to a successful termination, all of the resources of the country are hereby pledged by the Congress of the United States.

324

CHAMP CLARK,
Speaker of the House of Representatives.
THOMAS R. MARSHALL,
Vice-President of the United States,
President of the Senate.

Approved April 6th, 1917.

WOODROW WILSON."

Mr. Wertz: I now desire to read into the record, if the Court please, the address of the President of the United States to Congress, in relation to the war, and which precedes the declaration of war, and which was the cause of that declaration.

Mr. Stedman: I am objecting to it as a statement of a cause. It is the reasons and not the cause.

The Court: Now, Mr. Stedman, do you object to it on the grounds of its competency and relevancy?

Mr. Stedman: Yes, sir; I object to it on both grounds.

The Court: The Court will sustain your objection.

325 Thereupon the Government further to maintain the issue on its part to be maintained, called as a witness, JAMES V. MCCANN, who being first duly sworn testified as follows:

Direct examination by Mr. Wertz:

My name is James V. McCann; I live at Canton, Ohio; I have lived in Canton about a year and a half; right now *in* I am a soldier stationed at Camp Sherman; on the 16th of June, 1918, I was at Canton, Ohio, at Nimisila Park; at Nimisila Park that day, Eugene V. Debs delivered a speech at the conclusion of the State Convention of the Socialist Party; I heard portions of that speech, yes, sir; My age on that date was twenty-seven; at that time I had registered under the selective draft; I was listening to this speech in the capacity of a newspaper reporter; I took some pictures; yes, sir. Government's Exhibit No. 17 is one of the pictures that I took; It is a picture of the crowd at the park surrounding the platform upon which Mr. Debs spoke at Nimisila park; it was taken at that time. Government's Exhibit No. 18 is a picture of the same platform with a closer view of Mr. Debs and a few of the people in front of him. Government's Exhibit No. 19 is practically the same view.

The Court: It is in a slightly different position, is it?

The Witness: Yes, sir.

Whereupon the Government offers in evidence the photographs heretofore marked for identification Government Exhibits
326 17, 18, 19 respectively, and the same are received in evidence without objection, and are hereto attached and made a part of this record.

Cross-examination by Mr. Stedman:

Yes, sir; I was there when the meeting was opened; it was opened by Mr. Allan Cook; he read the Declaration of Independence; that was the first thing that was done before the speaker of the day was introduced.

327 Thereupon the Government, further to maintain the issues on its part to be maintained, called as a witness DENNIS R. SMITH, who being first duly sworn, testified as follows:

Direct examination by Mr. Wertz:

My name is Dennis R. Smith; on the sixteenth of June, 1918, I lived in Canton, Ohio; I was at Nimisila Park in the afternoon; I heard Eugene V. Debs speak there; my age on the 16th of June 1918, was twenty-nine; I will be thirty on the 6th of November; at that time I was twenty-nine years old; I had registered under the selective draft in the service of the United States Army; I heard the most of Mr. Debs' speech; yes, sir.

The Court: You were an American citizen then, were you?

The Witness: Yes, sir.

Mr. Wertz: If the Court please, the Court asked a question that I probably overlooked in examining Mr. Miller and the two witnesses in regard to citizens of the United States on that date. I would like to have the record show that these men were all citizens of the United States on that day, and if you will not concede that, I will call them back and put them on the stand.

Mr. Stedman: That is unnecessary.

The Court: I do not understand that there is any question about their eligibility as citizens of the United States.

328 Mr. Stedman: I am not making it necessary to prove citizenship, but as to any other qualifications I do not care to concede anything.

329 Thereupon the Government, further to maintain the issues on its part to be maintained, called as a witness G. W. KENT, who, being first duly sworn testified as follows:

Direct examination by Mr. Wertz:

My name is G. W. Kent; my home is Canton, Ohio; I am stationed at the present time at Brunswick, Georgia, in the capacity of engineer in the employ of the Government, war department—construction engineer; I have been recommended for a captaincy in the Quartermaster's Corps. On the 16th day of June, 1918, I was at Canton, Ohio, at Nimisila park for one place; I heard speak there Allan Cook of Canton, Mrs. Prevey of Akron, I guess; Mr. Debs, and a number of other speakers; I don't recall their names; I was there throughout the address of Mr. Debs; I was a citizen of the United States at that time;

The Court: What was your age at that time?

The Witness: Forty years old.

Cross-examination by Mr. Stedman:

Mr. Cook opened the meeting; he opened it by reading the Declaration of Independence; and then Mrs. Prevey introduced the speaker with a few remarks.

Mr. Wertz: Will the Court now pass upon the admissibility of Government's Exhibits 16 and 16-A?

The Court: I will adhere to and carry into a ruling the intimation I made as to the admissibility of Exhibits 16 and 16-A,
330 relating to the Haywood case. The Government will be allowed an exception to that ruling. As to the ruling I made as to the admissibility of the message to Congress urging and recommending a declaration of war against the Imperial Government of Germany and the reasons given for that recommendation I will adhere to the ruling I have made and will allow the Government an exception.

Thereupon the Government rested.

Thereupon the defendant presented the following written moti
"Now comes the defendant, Eugene V. Debs, in his own pr
person, by his attorney, and moves that the Court instruct the j
as to each and every count in the indictment, to find the defend
not guilty."

The Court: The Court directs a verdict of not guilty as to cou
six and eight. Nolle prosequi has been entered by the Court
to counts one, five and nine. Motion is overruled as to counts th
four, seven and ten. An exception is allowed the defendant.

Mr. Stedman: Exception. And that preserves an exception
each count?

The Court: Yes.

Thereupon both parties rested.

The above and foregoing together with the exhibits which
hereto attached and made a part hereof, was all of the eviden
offered and received at the trial of the above entitled case.

331 Thereupon counsel for the defendant, in writing, request
the Court to charge the jury, before argument, the followi
propositions of law, separately, and not as a series:

1. In considering the evidence of the speech alleged to ha
been made by the defendant, you must direct your attention to t
alleged speech in its entirety, you must take the whole address ma
by the defendant, and if the whole address made by the defendan
appears to be different in substance and form than the whole a
dress charged in the indictment, you must find the defendant n
guilty. You have no right to pick out an isolated phrase or a fe
words here and there in the address, separating them from their co
text, and basing a judgment thereon.

2. If you believe the defendant made his speech on the day i
question but the speech actually made by him and proven is i
words and substance different from the speech alleged in the indict
ment, then, even though you believed it would be very objection
able or even vicious, it is your duty to find the defendant not guilty

3. The military and naval forces of the United States compris
all persons actively in the military and naval forces of the United
States, those organized and in service, not persons merely registered
and subject to future organization and service.

4. Refusal of duty means declining or refusing to obey a rule or
regulation or laws imposed upon those in the military and naval
forces of the United States. Mutiny means an armed revolt
332 upon land or sea against the authority of officers in com-
mand.

5. Disloyalty means opposition to or betrayal of the military and
naval forces of the United States by a soldier or sailor.

6. Insubordination means a refusal by a subordinate in the mili-
tary or naval forces of the United States to obey the commands or
orders of his superior officers.

7. There is no evidence that the defendant caused insubordination, disloyalty, mutiny and refusal of duty, as charged, and you should disregard this.

8. These terms, insubordination, disloyalty, mutiny and refusal of duty apply exclusively to persons actually engaged in the military and naval forces of the United States.

9. Did the defendant attempt to cause an obedient, loyal soldier or sailor to disobey his officers' commands, to adhere to the cause of the enemy, to rise in revolt against the authority of his officers, or to refuse to obey the rules and regulations of the military and naval forces of the United States?

10. To cause means to lead, to make or compel, to procure, to overcome opinion or will. To incite means to stir up, to arouse, to move to action. Does the evidence in this case prove beyond a reasonable doubt that the defendant knowingly, conscious of what he was doing, wilfully, that is, with an evil purpose and stubbornly, did attempt to or move to action or arouse persons in the military and naval forces of the United States to insubordination, dis-
333 loyalty, mutiny, and refusal of duty? In this connection you are charged that there is no evidence that the defendant did, in fact, incite or attempt to cause insubordination, disloyalty, mutiny and refusal of duty in the military and naval forces of the United States.

11. Under this count the prosecution must prove beyond a reasonable doubt that Clyde R. Miller and Dennis R. Smith were a part of, or in the military and naval forces of the United States, or that said Miller and Smith or persons unknown to the Grand Jury, actually conveyed or reported the words and substance of the speech charged against the defendant to some person or persons who were in the military and naval forces of the United States, and that the words and substance so reported to the persons in the military and naval forces of the United States had the effect of causing insubordination, disloyalty, mutiny and refusal of military duty, or that the defendant attempted to induce the effect charged in this count.

12. You are instructed that recruiting and enlistment service of the United States means the service or department of the military and naval forces of the United States which solicits, encourages and promotes recruiting, that is, the voluntary enlistment of men in the army and navy. Recruiting insofar as it has a different meaning from enlistment means the encouraging or procuring of persons to enlist. Enlistment means the act of taking into the service and the making of a contract for service between the Government and the recruit. The recruiting and enlistment service does not
334 include those who may in the future enlist and become a part of the military and naval forces of the United States.

13. The evidence must prove beyond a reasonable doubt that the defendant, with knowledge, that is, conscious of what he was doing, and wilfully, that is, with an evil mine, intentionally and stubbornly, did obstruct the recruiting and enlistment service of the United States as defined herein.

14. In this count you are instructed that to obstruct mea
block up, to interpose obstacles, to impede, to hinder, or to fru
some act of the recruiting or enlistment service.

15. Obstruction must be by actual violence or by threat
violence; it must be accompanied by the exercise of force.
the evidence in this case satisfy you beyond a reasonable doub
the defendant, by making the speech charged in the indict
did knowingly and wilfully obstruct the recruiting and enlist
service of the United States? You should be satisfied that it
be an actual obstruction, not mere disaffection, caused by th
marks of the defendant. You must be satisfied from the evi
beyond a reasonable doubt that the defendant wilfully intend
obstruct the recruiting and enlistment service; otherwise you sh
find the defendant not guilty.

16. If there was no obstruction, as charged, then you may
sider the charge that the defendant attempted to obstruct th
cruiting and enlistment service of the United States. In
335 you must be satisfied beyond a reasonable doubt that th
fendant knowingly, that is, consciously, wilfully, that
with a bad purpose and of stubborn mind, attempted to obst
and if not so satisfied beyond a reasonable doubt, you should
the defendant not guilty.

17. Attempt means an endeavor to accomplish a crime car
beyond mere preparation; a failure; or falling short of the execu
of the ultimate design or purpose; an intent to do a partic
criminal thing combined with an action which falls short of
doing of the thing intended. Can you say from the evidence
this case beyond a reasonable doubt that the defendant was inte
ing the commission of the crime charged in this count, and t
before the accomplishment of the crime there was a falling sh
of the execution, that is, that some efficient intervening cause int
cepted and stopped the complete execution of the crime intend
and attempted by the defendant?

18. The recruiting and enlistment service of the United Sta
only includes those persons who are engaged actively in said servi
and who are enrolled within the military and naval forces of t
United States.

19. You are instructed that the reference here to the recruiti
and enlistment service does not mean and does not include t
conscripting and drafting of men into the military and naval forc
of the United States. The conscripting and enlistment of men und
the Selective Service Draft Act is a different part and a di
336 ferent service from the recruiting and enlistment service
the United States.

20. On this count if you are not satisfied beyond a reasonab
doubt that Clyde R. Miller, Dennis R. Smith and Virgil Steine
citizens of the United States, heard the purported address of th
speech of the defendant, that the speech was in words and substanc
as set forth in the indictment, and particularly that said Mille
Smith and Steiner were a part of or within the recruiting and enlist

ment service of the United States, then you shoud find the defendant not guilty.

21. If, under the law of this case and the evidence offered in support of this count, you are confused or uncertain as to what the evidence proves or the application of the law, to this count, then you should render a verdict of not guilty.

22. The Court instructs the jury that when a man's conduct may as consistently and as reasonably from the evidence, be referred to one of two motives, one criminal and the other innocent, it is your duty to presume that such conduct is actuated by the innocent motive and not the criminal.

23. Every citizen has a right, without intent to obstruct the recruiting or enlistment service, or to interfere with or disrupt the military forces, to think, feel and express disapproval or abhor-ence of any law or policy or proposed law or policy, including the Declaration of War, the Conscription Act, and the so-called sedition clauses of the Espionage Act; belief that the war is not or was not a
337 a war for democracy; belief that our participation in it was forced or induced by powers with selfish interests to be served thereby; belief that our partic-pation was against the will of the majority of the citizens or voters of the country; belief that the self-sacrifice of persons who elect to suffer for freedom of conscience is admirable; belief that war is horrible; belief that the Allies' war aims were or are selfish and undemocratic; belief that the Russian Revolution is a great achievement in human progress.

24. If it was the conscious purpose of the defendant to state truth as he saw it; to do this clearly and persuasively in order to lead others to see things in the same way, with the object to bring about modification, reconstruction or reshaping of national policy in accordance with what he believed right and true, and obstruction of the recruiting and enlistment service was not his object, nor disruption of the military or naval forces of the United States, nor opposition to the success of the United States in the war, the jury should not find him guilty.

25. An address delivered to a committee of party secretaries, as appears in the testimony regarding some form of statement made by the defendant in Chicago on August 11, 1918, is not to be regarded in the same light as a general public address or writing. In regard to an address or statement delivered to party officials, you must take into consideration the different form of the issues as dealt with by the speaker, also the many possibilities arising out of
338 this special situation and this special view point.

Which requests to charge before argument the Court overruled; to which ruling of the Court the defendant then and there duly excepted.

Thereupon, after the opening argument to the jury on behalf of the Government, the defendant addressed the Jury as follows:

339 *Argument of Eugene V. Debs.*

May it please the Court, and Gentlemen of the Jury:

For the first time in my life I appear before a jury in a c
law to answer to an indictment for crime. I am not a law
know little about court procedure, about the rules of evid
legal practice. I know only that you gentlemen are to h
evidence brought against me, that the Court is to instruct
the law, and that you are then to determine by your verdict w
I shall be branded with criminal guilt and be consigned, I
to the end of my life, in a felon's cell.

Gentlemen, I do not fear to face you in this hour of accu
nor do I shrink from the consequences of my utterances or m
Standing before you, charged as I am with crime, I can yo
the Court in the face. I can look you in the face. I can loo
world in the face, for in my conscience, in my soul, there is fe
no accusation of guilt.

Permit me to say in the first place that I am entirely sa
with the Court's ruling. I have no fault to find with the d
attorney or with the counsel for the prosecution.

I wish to admit the truth of all that has been testified to in
proceeding. I have no disposition to deny anything that is

I would not, if I could, escape the results of an adverse
340 dict. I would not retract a word that I have uttered t
believe to be true to save myself from going to the pen
tiary for the rest of my days.

I am charged in the indictment, first, that I did wilfully c
and attempt to cause or incite, subordination, mutiny, dislo
and refusal of duty within the military forces of the United St
that I did obstruct and attempt to obstruct the recruiting and e
ment service of the United States. I am charged also with utte
words intended to bring into contempt and disrepute the form
government of the United States, the Constitution of the Un
States, the military forces of the United States, the flag of the Un
States and the uniform of the army and navy.

The Court: Mr. Debs, permit me to say that the last charge wh
you have read to the jury has been withdrawn from their con
eration by the Court.

Mr. Debs: Pardon me. I was not aware of that.

The Court: I have directed a verdict of "not guilty" as to t
charge.

Mr. Debs: I am accused further of uttering words intended
procure and incite resistance to the United States and to promo
the cause of the Imperial German Government.

Gentlemen, you have heard the report of my speech at Cant
on June 16th, and I submit that there is not a word in th
341 speech to warrant these charges. I admit having deliver
the speech. I admit the accuracy of the speech in all of i
main features as reported in this proceeding. There were two di

tinct reports. They vary somewhat but they are agreed upon
of the material statements embodied in that speech.

In what I had to say there my purpose was to educate the pe
to understand something about the social system in which we
and to prepare them to change this system by perfectly peace
and orderly means into what I, as a Socialist, conceive to be a
democracy.

From what you heard in the address of counsel for the prose
tion, you might naturally infer that I am an advocate of force
violence. It is not true. I have never advocated violence in
form. I always believed in education, in intelligence, in enlig
ment, and I have always made my appeal to the reason and
the conscience of the people.

I admit being opposed to the present form of government.
admit being opposed to the present social system. I am doing w
little I can, and have been for many years, to bring about a cha
that shall do away with the rule of the great body of the people
a relatively small class and establish in this country an industr
social democracy.

In the course of the speech that resulted in this indi
342 ment, I am charged with having expressed sympathy
Kate Richards O'Hare, for Rose Pastor Stokes, for Ruth
berg, Wagenknecht and Baker. I did express my perfect sympat
with these comrades of mine. I have known them for many yea
I have every reason to believe in their integrity, every reason
look upon them with respect, with confidence, and with approv
Kate Richards O'Hare never uttered the words imputed to h
in the report. The words are perfectly brutal. She is not capa
of using such language. I know that through all of the years
her life she has been working in the interests of the sufferin
struggling, poor; that she has consecrated all of her energies,
of her abilities, to their betterment. The same is true of Ro
Pastor Stokes. Through all of her life she has been on the si
of the oppressed and downtrodden. If she were so inclined, s
might occupy a place of ease. She might enjoy all of the comfor
and leisures of life. Instead of this, she has renounced them a
She has taken her place among the poor, and there she has work
with all of her ability, all of her energy, to make it possible f
them to enjoy a little more of the comfort of life.

I said that if these women whom I have known all of these years
that if they were criminals, if they ought to go to the penitentiar
then I too am a criminal, and I too ought to be sent to priso
343 I have not a word to retract—not one. I uttered the truth
I made no statement in that speech that I am not prepare
to prove. If there is a single falsehood in it, it has not been exposed
If there is a single statement in it that will not bear the light o
truth, I will retract it. I will make all of the reparation in my powe
But if what I said is true, and I believe it is, then whatever fate o
fortune may have in store for me I shall preserve inviolate the integ
rity of my soul and stand by it to the end.

When I said what I did about the three comrades of
are in the workhouse at Canton, I had in mind what they
ever since I have known them in the service of the work
I had in mind the fact that these three workingmen had ju
while before had their hands cuffed and were strung up
prison house for eight hours at a time until they fell to
fainting from exhaustion. And this because they had r
do some menial, filthy services that were an insult to thei
and their manhood.

I have been accused of expressing sympathy for the B
of Russia. I plead guilty to the charge. I have read a g
about the Bolsheviki of Russia that is not true. I happen
of my own knowledge that they have been grossly
344 sented by the press of this country. Who are thes
maligned revolutionists of Russia? For years they
the victims of a brutal Czar. They and their antecedents w
to Siberia, lashed with a knout, if they even dreamed of
At last the hour struck for a great change. The revolutio
The Czar was overthrown and his infamous regime ended.
followed? The common people of Russia came into pow
peasants, the toilers, the soldiers, and they proceeded as b
could to establish a government of the people.

District Attorney Wertz: If the Court please, I would lik
the Court to instruct the defendant that his arguments ar
confined to the evidence in the case. There isn't any evid
this case about the Bolsheviki at all or the Russian revolutio

The Court: I think I will permit the defendant to proceed
own way. Of course, you are not a lawyer, Mr. Debs. Th
rule is that the remarks of counsel should be confined to th
mony in the case, but it does not forbid counsel from makin
ences to facts or matters of general public history or notor
way of illustrating your arguments and comments upon th
mony in the case. So I will permit you to proceed in your ow

Mr. Debs: Thank you. It may be that the much-despise
sheviki may fail at last, but let me say to you tha
345 have written a chapter of glorious history. It will st
their eternal credit. The leaders are now denounced as
inals and outlaws. Let me remind you that there was a time
George Washington, who is now revered as the father of his co
was denounced as a disloyalist, when Sam Adams, who is kno
us as the father of the American Revolution, was condemned
incendiary, and Patrick Henry, who delivered that inspired
inspiring oration that aroused the colonists, was condemned
traitor.

They were misunderstood at the time. They stood true to
selves, and they won an immortality of gratitude and glory.

When great changes occur in history, when great principl
involved, as a rule the majority are wrong. The minority are
In every age there have been a few heroic souls who have be
advance of their time, who have been misunderstood, mali
persecuted, sometimes put to death. Long after their marty

monuments were erected to them and garlands were woven
graves.

I have been accused of having obstructed the war. I
Gentlemen, I abhor war. I would oppose the war if I sto
When I think of a cold, glittering steel bayonet being pl
the white, quivering flesh of a human being, I recoil wit

I have often wondered if I could take the life of n
346 men, even to save my own.

Men talk about holy wars. There are none. L
mind you that it was Benjamin Franklin who said, "The
was a good war or a bad peace."

Napoleon Bonaparte was a high authority upon the s
war. And when in his last days he was chained to the ro
Helena, when he felt the skeleton hand of death reaching
he cried out in horror, "War is the trade of savages and bar

I have read some history. I know that it is ruling cla
make war upon one another, and not the people. In all of
tory of this world the people have never yet declared a w
one. I do not believe that really civilized nations would mu
another. I would refuse to kill a human being on my own
Why should I at the command of anyone else or at the c
of any power on earth?

Twenty centuries ago there was one appeared upon earth
as the Prince of Peace. He issued a command in which I
He said, "Love one another." He did not say, "Kill one a
but "Love one another." He espoused the cause of the s
poor—just as Rose Pastor Stokes did, just as Kate Richards
did—and the poor heard him gladly. It was not long b
aroused the ill-will and the hatred of the usurers, the

changers, the profiteers, the high priests, the lawy
347 judges, the merchants, the bankers—in a word, the
class. They said of him just what the ruling class
the Socialist today, "He is preaching dangerous doctrine,
inciting the common rabble. He is a menace to peace and
And they had him arraigned, tried, convicted, condemned, a
had his quivering body spiked to the gates of Jerusalem.

This has been the tragic history of the race. In the ancien
Socrates sought to teach some new truths to the people, a
made him drink the fatal hemlock. It has been true all al
track of the ages. The men and women who have been in a
who have had new ideas, new ideals, who have had the cou
attack the established order of things, have all had to pay t
penalty.

A century-and-a-half-ago, when the American colonists w
foreign subjects, and when there were a few men who had
the common people and believed that they could rule the
without a king, in that day to speak against the king was
If you read Bancroft or any other standard historian, you w
that a great majority of the colonists believed in the ki
actually believed that he had a divine right to rule over
They had been taught to believe that to say a word against th

to question his so-called divine right, was sinful. There were
348 ministers opened their bibles to prove that it was the patriotic
duty of the people to loyally serve and support the king.
But there were a few men in that day who said, "We don't need a
king. We can govern ourselves." And they began an agitation
that has been immortalized in history.

Washington, Adams, Payne—these were the rebels of their day. At first they were opposed by the people and denounced by the press. You can remember that it was Franklin who said to his compeers, "We have now to hang together or we'll hang separately bye and bye." And if the Revolution had failed, the revolutionary fathers would have been executed as felons. But it did not fail. Revolutions have a habit of succeeding, when the time comes for them. The revolutionary forefathers were opposed to the form of government in their day. They were denounced, they were condemned. But they had the moral courage to stand erect and defy all the storms of detraction; and that is why they are in history, and that is why the great respectable majority of their day sleep in forgotten graves. The world does not know they ever lived.

At a later time there began another mighty agitation in this country. It was against an institution that was deemed a very respectable one in its time, the institution of chattel slavery, that became all-powerful, that controlled the president, both branches of
congress, the supreme court, the press, to a very large extent
349 the pulpit. All of the organized forces of society, all the
powers of government, upheld chattel slavery in that day. And again there were a few appeared. One of them was Elijah Lovejoy. Elijah Lovejoy was as much despised in his day as are the leaders of the I. W. W. in our day. Elijah Lovejoy was murdered in cold blood in Alton, Illinois, in 1837, simply because he was opposed to chattel slavery—just as I am opposed to wage slavery. When you go down the Mississippi River and look up at Alton, you see a magnificent white shaft erected there in memory of a man who was true to himself and his convictions of right and duty unto death.

It was my good fortune to personally know Wendell Phillips. I heard the story of his persecution, in part at least, from his own eloquent lips just a little while before they were silenced in death. William Lloyd Garrison, Garret Smith, Thaddeus Stevens—these leaders of the abolition movement, who were regarded as monsters of depravity, were true to the faith and stood their ground. They are all in history. You are teaching your children to revere their memories, while all of their detractors are in oblivion.

Chattel slavery disappeared. We are not yet free. We are engaged in another mighty agitation today. It is as wide as the world.
It is the rise of the toiling and producing masses who are
350 gradually becoming conscious of their interest, their power,
as a class, who are organizing industrially and politically, who are slowly but surely developing the economic and political power that is to set them free. They are still in the minority, but they have learned how to wait, and to bide their time.

It is because I happen to be in this minority that I stand in your presence today, charged with crime. It is because I believe as the revolutionary fathers believed in their day, that a change was due in the interests of the people, that the time had come for a better form of government, an improved system, a higher social order, a nobler humanity and a grander civilization. This minority that is so much misunderstood and so bitterly maligned, is in alliance with the forces of evolution, and as certain as I stand before you this afternoon, it is but a question of time until this minority will become the conquering majority and inaugurate the greatest change in all of the history of the world. You may hasten the change; you may retard it; you can no more prevent it than you can prevent the coming of the sunrise on the morrow.

My friend, the assistant prosecutor, doesn't like that I had to say in my speech about internationalism. What is there objectionable to internationalism? If we had internationalism there would be no war. I believe in patriotism. I have never
351 uttered a word against the flag. I love the flag as a symbol of freedom. I object only when that flag is prostituted to base purposes, to sordid ends, by those who, in the name of patriotism, would keep the people in subjection.

I believe, however, in a wider patriotism. Thomas Payne said, "My country is the world. To do good is my religion." Garrison said, "My country is the world and all mankind are my countrymen." That is the essence of internationalism. I believe in it with all of my heart. I believe that nations have been pitted against nations long enough in hatred, in strife, in warfare. I believe there ought to be a bond of unity between all of these nations. I believe that the human race consists of one great family. I love the people of this country, but I don't hate the people of any country on earth—not even the Germans. I refuse to hate a human being because he happens to be born in some other country. Why should I? To me it does not make any difference where he was born or what the color of his skin may be. Like myself he is the image of his creator. He is a human being endowed with the same faculties, he has the same aspirations, he is entitled to the same rights, and I would infinitely rather serve him and love him than to hate him and kill him.

We hear a great deal about human brotherhood—a beautiful and inspiring theme. It is preached from a countless number of
352 pulpits. It is vain for us to preach of human brotherhood while we tolerate this social system in which we are a mass of warring units, in which millions of workers have to fight one another for jobs, and millions of business men and professional men have to fight one another for trade, for practice—in which we have individual interests and each is striving to care for himself alone without reference to his fellow men. Human brotherhood is yet to be realized in this world. It never can be under the capitalist-competitive system in which we live.

Yes; I was opposed to the war. I am perfectly willing, on that count, to be branded as a disloyalist, and if it is a crime under the

American law punishable by imprisonment for being opposed to human bloodshed, I am perfectly willing to be clothed in the stripes of a convict and to end my days in a prison cell.

If my friends, the attorneys, had known me a little better they might have saved themselves some trouble in procuring evidence to prove certain things against me which I have not the slightest inclination to deny, but rather, upon the other hand, I have a very considerable pride in.

You have heard a great deal about the St. Louis platform. I wasn't at the convention when that platform was adopted, but I don't ask to be excused from my responsibility on that account. I voted for its adoption. I believe in its essential principles.
353 There was some of its phrasing that I would have otherwise. I afterwards advocated a re-statement. The testimony to the effect that I had refused to repudiate it was true.

At the time that platform was adopted the nation had just entered upon the war and there were millions of people who were not Socialists who were opposed to the United States being precipitated into that war. Time passed; conditions changed. There were certain new developments and I believed there should be a re-statement. I have been asked why I did not favor a repudiation of what was said a year before. For the reason that I believed then, as I believe now, that the statement correctly defined the attitude of the Socialist Party toward war. That statement, bear in mind, did not apply to the people of this country alone, but to the people of the world. It said, in effect, to the people, especially to the workers, of all countries, "Quit going to war. Stop murdering one another for the profit and glory of ruling classes. Cultivate the arts of peace. Humanize humanity. Civilize civilization." That is the essential spirit and the appeal of the much-hated, condemned, St. Louis platform.

Now the Republican and Democratic parties hold their conventions from time to time. They revise their platforms and their declarations. They do not repudiate previous platforms.
354 Nor is it necessary. With the change of conditions these platforms are outgrown and others take their places. I was not in the convention, but I believed in that platform. I do today. But from the beginning of the war to this day, I have never, by word or act, been guilty of the charges that are embraced in this indictment. If I have criticized, if I have ever condemned, it is because I have believed myself justified in doing so under the laws of the land. I have had precedents for my attitude. This country has been engaged in a number of wars, and every one of them has been opposed, every one of them has been condemned, by some of the most eminent men in the country. The War of the Revolution was opposed. The Tory press denounced its leaders as criminals and outlaws. And that is what they were under the divine right of a king to rule men.

The War of 1812 was opposed and condemned; the Mexican War was bitterly condemned by Abraham Lincoln, by Charles Sumner, by Daniel Webster and by Henry Clay. That war took place under

the Polk administration. These men denounced the president; they condemned his administration; and they said that the war was a crime against humanity. They were not indicted; they were not tried for crime. They are honored today by all of their countrymen. The War of the Rebellion was opposed and condemned. In 1864 the Democratic Party met in convention at Chicago and
355 passed a resolution condemning the war as a failure. What would you say if the Socialist Party were to meet in convention today and condemn the present war as a failure? You charge us with being disloyalists and traitors. Were the Democrats of 1864 disloyalists and traitors because they condemned the war as a failure?

I believe in the Constitution of the United States. Isn't it strange that we Socialists stand almost alone today in defending the Constitution of the United States. The revolutionary fathers who had been oppressed under king rule understood that free speech and the right of free assemblage by the people were the fundamental principles of democratic government. The very first amendment to the Constitution reads: "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances." That is perfectly plain English. It can be understood by a child. I believe that the revolutionary fathers meant just what is here stated—that Congress shall make no law abridging the freedom of speech or of the press, or of the right of the people to peaceably assemble, and to petition the government for a redress of grievances.

That is the right that I exercised at Canton on the 16th day
356 of last June; and for the exercise of that right, I now have to answer to this indictment. I believe in the right of free speech, in war as well as in peace. I would not, under any circumstances, gag the lips of my bitterest enemy. I would under no circumstances suppress free speech. It is far more dangerous to attempt to gag the people than to allow them to speak freely of what is in their hearts. I do not go as far as Wendell Phillips did. Wendell Phillips said that the glory of free men is that they trample unjust laws under their feet. That is how they repeal them. If a human being submits to having his lips sealed, to be in silence reduced to vassalage, he may have all else, but he is still lacking in all that dignifies and glorifies real manhood.

Now, notwithstanding this fundamental provision in the national law, Socialists' meetings have been broken up all over this country. Socialist speakers have been arrested by hundreds and flung into jail, where many of them are lying now. In some cases not even a charge was lodged against them—guilty of no crime except the crime of attempting to exercise the right guaranteed to them by the Constitution of the United States.

I have told you that I am no lawyer, but it seems to me that I know enough to know that if Congress enacts any law that conflicts with this provision in the Constitution, that law is void. If the

Espionage law finally stands, then the Constitution of th
357 United States is dead. If that law is not the negation o
every fundamental principle established by the Constitution
then certainly I am unable to read or to understand the Englis
language.

(To the Court:) Your Honor, I don't know whether I would be i
order to quote from a book I hold in my hand, called "The Ne
Freedom," by Woodrow Wilson, President of the United States.

The Court: I will grant you that permission.

Mr. Debs: I want to show the gentlemen of the jury, if I can
that every statement I made in my Canton speech is borne out i
this book by Woodrow Wilson, called "The New Freedom." I
consists of his campaign speeches while a candidate for the presi
dency. Of course he uses different language than I did, for he i
a college professor. He is an educated gentleman. I never had
a chance to get an education. I had to go to work in my childhood
I want to show you that the statement made by Rose Pastor Stokes,
for which she has been convicted, and the approval of which has
brought condemnation upon me, is substantially the same statement
as made by Mr. Wilson when he was a candidate for the presidency
of the United States.

(Reading) "Today, when our government has so far passed into
the hands of special interests; today, when the doctrine is implicitly
avowed that only select classes have the equipment necessary for car-
rying on government; to-day, when so many conscientious
358 citizens, smitten with the scene of social wrong and suffer-
ing have fallen victims to the fallacy that benevolent govern-
ment can be meted out to the people by kind-hearted trustees of
prosperity and guardians of the welfare of dutiful employees,—today,
supremely, does it behoove this nation to remember that a people
shall be saved by the power that sleeps in its own deep bosom, or
by none; shall be renewed in hope, in conscience, in strength, by
waters welling up from its own sweet, perennial springs."

So this government has passed into the hands of special interests.
Rose Pastor Stokes' language is somewhat different. Instead of
"special interests" she said "profiteers." She said that a government
that was for the profiteers could not be for the people, and that as
long as the government was for the profiteers, she was for the people.
That is the statement that I endorsed, approved and believed in
with all my heart. The President of the United States tells us that
our government has passed into the control of special interests.
When we Socialists make the same contention, we are branded as
disloyalists, and we are indicted as criminals. But that is not all,
nor nearly all.

(Reading) "There are, of course, Americans who have not yet
heard that anything is going on. The circus might come to town,
have the big parade and go, without their catching a sight of the
camels or a note of the calliope. There are people, even Americans,
who never move themselves or know that anything else is
moving."

359 Just one other quotation. (Reading) "For a long time this country of ours has lacked one of the institutions which freemen have always and everywhere held fundamental. For a long time there has been no sufficient opportunity of counsel among the people; no place and method of talk, of exchange of opinion, of parley. Communities have outgrown the folk-meet and the town-meeting. Congress, in accordance with the genius of the land, which asks for action and is impatient of words,—Congress has become an institution which does its work in the privacy of committee rooms and not on the floor of the Chamber; a body that makes laws,— a legislature; not a body that debates,—not a parliament. Party conventions afford little or no opportunity for discussion; platforms are privately manufactured and adopted with a whoop. It is partly because citizens have foregone the taking of counsel together that the unholy alliances of bosses and Big Business have been able to assume to govern for us."

"I conceive it to be one of the needs of the hour to restore the processes of common counsel, and to substitute them for the processes of private arrangement which now determine the policies of cities, states, and nation. We must learn, we freemen, to meet, as our fatheres did, somehow, somewhere, for consultation. There must be discussion and debate, in which all freely participate."

Well, there has been something said in connection with
360 this about profiteering—in connection with this indictment. (To the Court) Would it be in order for me to read a brief statement, showing to what extent profiteering has been carried on during the last three years?

The Court: No. There would be no concensus of opinion or agreement upon that statement. It is a matter that is not really in the case, and when you go to compile a statement you are then undertaking to assume something without producing evidence to substantiate it.

Mr. Debs: Now, in the course of this proceeding you gentlemen have perhaps drawn the inference that I am pro-German, in the sense that I have any sympathy with the imperial government of Germany. My father and mother were born in Alsace. They loved France with a passion that is holy. They understood the meaning of Prussianism, and they hated it with all their hearts. I did not need to be taught to hate Prussian militarism. I knew from them what a hateful, what an oppressive, what a brutalizing thing it was and is. I cannot imagine how anyone could suspect that for one moment I could have the slightest sympathy with such a monstrous thing. I have been speaking and writing against it practically all of my life. I know that the Kaiser incarnates all there is of brute force and of murder. And yet I would not, if I had the power, kill the Kaiser. I would do to him what Thomas Payne wanted to do to the king of England. He said, "Destroy the king, but save the man."

The thing that the Kaiser embodies and incarnates, called
361 militarism, I would, if I could, wipe from the face of the earth,—not only the militarism of Germany, but the mili-

tarism of the whole world. I am quite well aware of the face
the war now deluging the world with blood was precipitated
not by the German people, but by the class that rules, oppr
robs and degrades the German people. President Wilson ha
peatedly said that we were not making war on the German pe
and yet in war it is the people who are slain, and not the rulers
are responsible for the war.

With every drop in my veins I despise kaiserism, and all
kaiserism expresses and implies. I have sympathy with the suffe
struggling people everywhere. It does not make any difference u
what flag they were born, or where they live. I have sympathy
them all. I would, if I could, establish a social system that w
embrace them all. It is precisely at this point that we com
realize that there is a reason why the peoples of the various nat
are pitted against each other in brutal warfare instead of l
united in one all-embracing brotherhood.

War does not come by chance. War is not the result of acci
There is a definite cause for war, especially a modern war. The
that began in Europe can readily be accounted for. For the
forty years, under this international capitalist system, this exp
ing system, these various nations of Europe have been prepa
for the inevitable. And why? In all these nations the great
dustries are owned by a relatively small class. They
362 operated for the profit of that class. And great abundanc
produced by the workers; but their wages will only buy
a small part of their product. What is the result? T
363 have a vast surplus on hand; they have got to export
they have got to find a foreign market for it. As a re
of this these nations are pitted against each other. They are
dustrial rivals—competitors. They begin to arm themselves to op
to maintain the market and quickly dispose of their surplus. Th
is but the one market. All these nations are competitors for it.
sooner or later every war of trade becomes a war of blood.

Now, where there is exploitation there must be some form of
itarism to support it. Wherever you find exploitation you find s
form of military force. In a smaller way you find it in this co
try. It was there long before war was declared. For instance, w
the miners out in Colorado entered upon a strike about four y
ago, the state militia, that is under the control of the Standard
Company, marched upon a camp, where the miners and their wi
and children were in tents. And by the way, a report of this st
was issued by the United States Committee on Industrial Relati
When the soldiers approached the camp at Ludlow, where th
miners, with their wives and children, were, the miners, to pr
that they were patriotic, placed flags above their tents, and wh
the state militia, that is paid by Rockefeller and controlled by Ro
efeller, swooped down upon that camp, the first thing they did
to shoot those United States flags into tatters. Not one
364 them was indicted or tried because he was a traitor to
country. Pregnant women were killed, and a number

innocent children slain. This in the United States of America,—the fruit of exploitation. The miners wanted a little more of what they had been producing. But the Standard Oil Company wasn't rich enough. It insisted that all they were entitled to was just enough to keep them in working order. There is slavery for you. And when at last they protested, when they were tormented by hunger, when they saw their children in tatters, they were shot down as if they had been so many vagabond dogs.

And while I am upon this point, let me say just another word. Working men who organize, and who sometimes commit overt acts, are very often times condemned by those who have no conception of the conditions under which they live. How many men are there, for instance, who know anything of their own knowledge about how men work in a lumber camp—a logging camp, a turpentine camp? In this report of the United States Commission on Industrial Relations, you will find the statement proved that peonage existed in the state of Texas. Out of these conditions springs such a thing as the I. W. W.—when men receive a pittance for their pay, when they work like galley slaves for a wage that barely suffices to keep
their protesting souls within their tattered bodies. When
365 they can endure the condition no longer, and they make some sort of a demonstration, or perhaps commit acts of violence, how quickly are they condemned by those who do not know anything about the conditions under which they work.

Five gentlemen of distinction, among them Professor John Graham Brooks, of Harvard University, said that a word that so fills the world as the I. W. W. must have something in it. It must be investigated. And they did investigate it, each along their own lines; and I wish it were possible for every man and woman in this country to read the result of their investigation. They tell you why and how the I. W. W. was instituted. They tell you, moreover, that the great corporations, such as the Standard Oil Company, such as the Coal Trust, and the Lumber Trust, have, through their agents, commited more crimes against the I. W. W. than the I. W. W. have ever committed against them.

I was asked not long ago if I was in favor of shooting our soldiers in the back. I said, "No. I would not shoot them in the back. I wouldn't shoot them at all. I would not have them shot." Much has been made of a statement that I declared that men were fit for something better than slavery and cannon fodder. I made the statement. I make no attempt to deny it. I meant exactly what I said. Men are fit for something better than slavery and cannon
fodder; and the time will come, though I shall not live to
366 see it, when slavery will be wiped from the earth, and when men will marvel that there ever was a time when men who called themselves civilized rushed upon each other like wild beasts and murdered one another, by methods so cruel and barbarous that they defy the power of language to describe. I can hear the shrieks of the soldiers of Europe in my dreams. I have imagination enough to see a battle field. I can see it strewn with the wrecks of human beings, who but yesterday were in the flush and glory of their young

manhood. I can see them at even-tide, scattered about in ren
their limbs torn from their bodies, their eyes gouged out.
can see them, and I can hear them. I look above and beyo
frightful scene. I think of the mothers who are bowed
shadow of their last great grief—whose hearts are breaking.
say to myself: "I am going to do the litle that lies in my po
wipe from this earth that terrible scourge of war."

If I believed in war I could not be kept out of the fir
trenches. I would not be patriotic at long range. I would be
enough, if I believed in bloodshed, to shed my own. But I
believe that the shedding of blood bears any actual testimony
triotism, to love of country, to civilization. On the contrary
lieve that warfare in all of its forms is an impeachm
367 our social order, and a rebuke to our much vaunted Ch
civilization.

And now, gentlemen of the jury, I am not going to detai
too long. I wish to admit everything that has been said resp
me from this witness chair. I wish to admit everything th
been charged against me except what is embraced in the indic
from which I have read to you. I cannot take back a word.
not repudiate a sentence. I stand before you guilty of having
this speech. I stand before you prepared to accept the consequ
of what there is embraced in that speech. I do not know, I c
tell, what your verdict may be; nor does it matter much, so fa
am concerned.

Gentlemen, I am the smallest part of this trial. I have lived
enough to appreciate my own personal insignificance in relati
a great issue, that involves the welfare of the whole people.
you may choose to do to me will be of small consequence afte
I am not on trial here. There is an infinitely greater issue t
being tried today in this court, though you may not be conscio
it. American institutions are on trial here before a court of A
can citizens. The future will tell.

And now, your Honor, permit me to return my hearty thank
your patient consideration. And to you, gentlemen of the
for the kindness with which you have listened to me.
368 My fate is in your hands. I am prepared for the verdi

Thereupon the Government closed the argument to the ju
follows:

369 Mr. Wertz: If the Court please, and gentlemen of the j
The Court has stated to you on several occasions that th
cialist Party is not on trial in this case. The indictment cha
the defendant, Eugene V. Debs, with certain violations of law,
regardless of what the Socialist Party is, or stands for, that has
ing to do with the offense that is charged against the defendant
on trial.

The speech, or the address, to the jury that the defendant ha
ably made, is more in the nature of a confession than it is the
of an argument to show that he is not guilty as charged in this

dictment. He has virtually admitted everything that is charged against him, except that what he has done is not a crime, and he seems to be content to let it go at that.

Now, he speaks about the Constitution of the United States giving him the authority to do what he did at Canton. The Constitution provides that there shall be no abridgment of free speech, it is true; yet, it is a fact that a man in a crowded auditorium, or any theater, who yells "fire" and there is no fire, and a panic ensues and someone is trampled to death, may be rightfully indicted and charged with murder, and may be convicted and sent to the electric chair for making such an outcry when there is no occasion for it. That
370 is an abridgment of the right of free speech according to the defendant's idea. It is punishable by civil action in some states, and, in some, by criminal action for two men to speak slanderously of a woman or of a man; yet it is an abridgment of free speech on the same basis that he speaks of the constitution preventing the government from passing any law which interferes with his right to say what he pleases at any time and under any circumstances.

It is made a crime in this state and many other states for a man to spread reports or statements about the solvency of a financial institution of a bank, from which a panic may ensue and a run on the bank put the institution out of business. That is an offense for which an indictment may be returned and the guilty party, if found guilty, sentenced to prison. Yet the Constitution, according to his theory, says that we can have no abridgement of the right of free speech; but under his theory it would be perfectly proper for any man to make any statements about the solvency of a financial institution, and he could not be punished for it; or, to speak slanderously of a woman's reputation or character, and there would be no punishment, because the Constitution says that he shall have the right of free speech. According to his theory, a man could go into a crowded theatre, or even into the audience, and yell "fire" when there was no fire, and people trampled to death, and he would not be punished for it because the Constitution says he has the
371 right of free speech.

The trouble with the defendant in this case is a good bit like the same trouble that some banks in this country get a lot of farmers into when they put out a book entitled, "Every man his own lawyer." They put just enough law into that book so that it got every one who read it and tried to follow it into the courts and into trouble; and he knows just enough about the Constitution and the law to get him into trouble.

Here is the situation in a nut-shell in regard to him and the people that he assumes to represent. I have no objection, if he assumes to represent the Socialist Party, or all the Socialists in the United States—it is perfectly immaterial to me. I was riding out in the country one evening in the fall, and a barn was on fire, and I saw a man driving a flock of sheep out of that barn to keep them from being burned up. Burning shingles were falling all around and sparks were flying everywhere. He got them out on one side of the barn. About the time he got them out, an old ewe at the head

of the flock started around the barn as fast as she cou
every sheep took after her into the barn on the other side
flames were the worst. He drove them out again on the
of the barn, and then the old ewe started around the bar
time, but the door was shut and she could not get in. T
said, "I don't care very much whether that old
372 burned up or not, but she is not going to take the
flock of sheep in and burn them up too." If th
wants to violate this law that Congress has passed, he has
go to the penitentiary, but I object to him taking the
flock to the penitentiary, and making traitors out of the
people that he assumes to represent, because of his sma
what the law is, and his smattering of what the constituti
of what he assumes to be his rights in this country. T
situation in this case.

Now, with regard to some of the things he has said to y
know, these men who get an idea that all the righteousnes
the high character, and all the principle in the world, is em
themselves, and that no one else has any, they are the fel
when they get into trouble they always lean to the bible
up the picture of a crucified Christ and would have you be
they are in the same class. He did not tell you what th
said when some taxgatherers said, at a time of war, "Mas
want to collect taxes here for Cæsar," expecting that he w
their side of the argument, as Debs assumes the people
country will take his side of the argument. But the Ma
"Render unto Cæsar the things that are Cæsar's, and u
the things that are God's." That is all that the governme
of Eugene V. Debs—that he render unto the governm
373 things that are the government's, and unto Mr.
things that belong to him.

He has taken the opportunity to refer to Russia and the
viki in Russia and the I. W. W. The Bolsheviki have the
that he speaks about; they established the ideal republic;
neglected to tell you that they had to take the soldiers f
United States, this country that he is trying to tear down, a
them over to Russia to preserve for those people over there th
that they have lost and failed to regain because of the Bolsh
Socialistic ideas—the conglomeration of theories that he ass
put into operation in this country.

The boys of America, under this Constitution, under the
passed by this Congress that is in session now, are over in R
preserve for the Russians the rights that otherwise would
without the intervention of boys from this country and ou

He talks to you about the Revolutionary War, about th
of these men that were responsible for the separation of this
from England, in which one of them said, "We must hang to
or we will all hang separately bye and bye." If Debs ha
around there at that time, we would still belong to England.
would have been no United States of America. You notice
took the Revolutionary War to Establish this country. It w

established by a lot of theorists like this defendant, with
374 smattering of knowledge, with enough to get them in
trouble, and to get the people of this country into trouble
who lead the half-bakes, the non compos mentis, and those who don
realize all the country means, who don't know what it cost to esta
lish this country and these privileges we have here. That is t
difficulty with him.

He speaks about revolutions, that revolutions come when the ti
is ripe, and he speaks about Lovejoy and these others dying for th
principles. Yes; and five hundred thousand more boys died in t
Civil War to preserve this country. If Debs had been around he
when the Civil War was in progress, we would not have any Unit
States of America, able to go over across the sea to preserve t
freedom of the world. That is where his doctrine leads.

Then he quotes from the "New Freedom" what Woodrow Wilso
said when he was running for office. Well, I assume Woodrow W
son was telling the truth, because I voted for him, and I believed
his doctrines. We have just as much right to believe that when M
Wilson was elected he corrected that situation. We have just
much right to assume that he has, as Debs has that things are u
changed.

He speaks about Henry Clay and Daniel Webster, with a gre
deal o. gusto, in connection with the Mexican War. There was
sedition act on the statute books at that time. We had
375 sedition law like we have today. Wilson intended evidentl
when he wrote his "New Freedom," to bring about in a
orderly way the correction of the evils that he complained of in th
book. Mr. Debs don't want any such arrangement. What he pr
poses is a social revolution—to go out and take mines that don
belong to him, and put the miners in to mine that coal, so tha
they can mine it at cost and buy their own homes, and for some oth
miner to come along and mine more coal and take their homes awa
from them. According to his theory, after the division is all mad
and after the property is all gone, when the next group of citizen
come along it has to be done all over again; so no man would kno
where he was at. That is his theory, and that is what he argues as
justification for his speech down at Canton.

Now let us see whether he is justified in trying to avoid the pena
ties of this law violation by any such argument as that. You know
when men violate the law they always leave some tracks around s
that you can catch them. It may take you some time to get them, bu
there are enough tracks around here to find out where they hav
gone to and what they are trying to do. Now, here is the situatio
in this country: It is not any theory of what he wants, or what yo
want, or what I want. That time has passed in this country. O
the 6th day of April, the Congress of the United States de
376 clared that "a state of war between the United States and th
Imperial German Government, which has been thrust upo
the United States, is hereby formally declared, and to bring the con
flict to a successful termination all the resources of this country ar
hereby pledged by the Congress of the United States."

The resources of the United States include the l
V. Debs just as much as it does the products from t
mines, or the mills and factories. The Congress of th
has pledged all the resources for the successful pros
war. It is not a question of what Mr. Debs wants.
day of April it is what Congress says shall be.

To comment on what he terms the ruling class, he
Congress of the United States, this jury that sits in
Court that sits on this bench, the United States attorn
as the representative of the Government to enforce
clerk of this court that sits here, as the ruling class i
We were all born here; we all worked out in the fields
children, to get enough in the house to eat during th
we helped the neighbors out when we hadn't anything
to get money enough to buy clothes to go to school
that we could study in colleges to become lawyers—in
could hold positions with the Government.
377 as likely to be congressman tomorrow as the
from this district is today. The ruling class
in this country—not any class that these men hold
bogey, so they can drag at their heels a lot of half-bak
don't understand the policies of these doctrines, in w
just enough truth to cover up the part that is not logi
leads anywhere except to trouble and destruction. Th
of the ruling class. If Mr. Debs, the defendant in thi
Russia when the czar was ruling them he might have
in these things that he is talking about; it might have
in Russia or in Germany. But in this country we ha
ment of the people, for the people, by the people, a
people. That is what we have in this country. The
in the United States are the citizens of the United S
is no use for these doctrines that he has here.

Now, in accordance with the declaration of war, Co
this law: "Be it enacted by the Senate and House of Re
of the United States of America in Congress assembled:
3, of Title 1, of the act entitled 'An act to punish acts of
with the foreign relations, the neutrality and the foreig
of the United States, to punish espionage and better
criminal laws of the United States and for othe
378 Approved June 15, 1917, be and the same is here
so as to read as follows: The first paragraph is
when the United States is at war, shall wilfully" do cer
That is the law in this country, and those who oppose
this country, as this man has done, are touching upon a
will tear your country down instead of holding it up and
it as it is.

Here is what he is charged with: the indictment say
the 16th day of June, in Canton, the United States bein
there at war with the Imperial German Government, pu
joint resolution of Congress, approved on the 6th of Apri
and there unlawfully, wilfully, and feloniously cause a

to cause, and incite and attempt to incite insubordination, disloy
mutiny and refusal of duty in the military and naval forces o
United States." Did you not hear these young men on the wi
stand here say, "At the time I heard this speech I had regis
under the conscription act"? The Court will charge you that
those men were enrolled and registered under the conscription
of this country, they were a part of the armed forces of the U
States, or the military forces of the United States.

What was the purpose of his speech? What was he tal
379 about? When a man says something to another, he is
sumed to intend what he says, and he is presumed to k
what the consequences of what he says will mean. He attem
to cause insubordination, and these young men, being a part o
military forces of the United States after they registered, the w
object and purpose of this speech down there was to prevent t
from doing their full duty toward their country—insubordina
disloyalty, mutiny and refusal of duty in the military and n
forces of the United States. That is the first charge against him

The fourth charge against him is that he attempted to obst
the recruiting and enlistment services of the United States.
laws passed by Congress, that were enforced, and so forth, prov
that there should be enlistments in the navy, and in the ma
corps, and in the different branches of the Government service;
the whole intention of this man's speech down there, and the e
of it, was to interfere with young men who heard that speech in
listing in the service of the United States. That was the pur
of it.

The seventh count in the indictment charges him with cer
language intended to incite, provoke and encourage resistance
the United States, and to promote the cause of the enemy.
admitted all this to you. He says he didn't want any
380 at all from anybody, but he was opposed to all of them.
posing the cause of the United States means that he was
posed to the United States winning this war. That is what he
posed. And he has admitted it to you in his speech that he n
to the jury. He has admitted every one of these charges aga
him, so that the only thing left is to say what intent he had w
he made that speech.

Let us see what the circumstances were surrounding this spe
in Canton. Here was Ruthenberg, Wagenknecht and Baker
in the work house. They were serving a sentence for having viola
the conscription act of the United States, in that they aided, abe
and assisted a boy by the name of Alphons Schue in his refusa
register, and to submit himself to the authority of the United Sta
That is the specific offense for which Ruthenberg, Wagenkne
and Baker were confined in the work house. That was a law pas
to promote the success of the United States in this war—to prom
the cause of the United States; and these men were down there
jail because they had violated this law. The Socialists went do
there, and they had a meeting. They came from all over the Uni
States. These three men, Ruthenberg, Wagenknecht and Bak

were the first Socialists and traitors that were confined in prison in this country, so far as I know. And they went down there to Canton, in a park right next to the workhouse, and when Debs got up to speak he said, "I have been over to see my comrades who are
381 suffering for me." They were suffering for violation of a law in connection with this war. That is intent, right there, when he made that speech. How were these men suffering for him, unless he intended to violate this law too? What is the bond of sympathy between them? They have a band-stand there where the speech took place. There was not a United States flag in evidence. Although it was in an open park, there were no decorations on that stand. That shows you the purpose,—that they were not friendly to the United States. It is one of the little straws which shows which way the wind blows. Now, what was the character of the audience? There were a lot of men of all ages gathered around there, who enthused over everything that Debs said there which was opposed to this war. It was a fertile field for this man to filter out his poison, and at a time when the very life of this nation is at stake, and its honor in the balance—a fertile field in which to sow his poison, in this crowd of cheering and hollering men of all ages,—men who were opposed to this war and who did not hesitate to voice their approval of what he said.

What does Miller testify to? Miller said, "I went down there, and I said, 'Mr. Debs, I see in the newspapers that you have changed front in this matter, and you repudiate the Socialist platform at St. Louis, or the anti-war platform." Debs said, "There is nothing to
382 it. I will stand on that platform—absolutely on that platform—and I won't change anything in it, except that I would make it stronger in regard to the Bolsheviki in Russia. That is the only change." That is the attitude of mind he had when he went out to make this speech; and he made it within an hour after this conversation with Miller. What was this newspaper statement? The newspaper statement was to the effect that Debs had seen the light and that he was not opposed to the war, and that the war ought to go on. I think that much has crept into the testimony here. Miller went down there to find out whether or not that was true. And Debs said, "No; you have been given the wrong information. I am standing on that platform, and I am for it, and I am going to stand on it." Now, he makes his speech, and within two weeks he is arrested and brought into the Federal building. Miller sees him over in the elevator, and he says, "Mr. Debs, how do you stand today on the Socialist platform, or the anti-war platform adopted at St. Louis?" Debs says, "I will die for every principle in that platform. I stand right on it." Is there any doubt as to what he was trying to do when he went down there? Is there any doubt what he was trying to do when he took this "holy thou" attitude, assuming to be the Jesus Christ of these other fellows that did something in this Country? Is there any doubt as to what he is trying to
383 do to this jury—to creep away from those crimes charged in this indictment?

Let us see what Mrs. Prevey says: "It is a great privilege to be a Socialist in this year, 1918. One of the ablest and most fearless orators——" Fearless of what? Unafraid of the Government and the authorities. Unafraid of the penalties that the Government imposes for conduct such as his. "One of the ablest and most fearless orators that ever spoke upon a public platform. A man that is the best loved and most hated of any man in the United States today. A man whom the capitalist papers endeavor to represent as being a renegade in the Socialist movement over a headline of 'Debs and Company desert the program of the Socialist party.' That is the way he is introduced, and there is long and continuous applause and cheers when he steps out to speak to this audience down in Stark County that is opposed to this war.

Do you notice the words Mrs. Prevey uses? "Debs and Company desert program." Let us see what this program is. "Anti-war proclamation and program." Is there any doubt about whether it is against this war? They are not talking about wars in general. Counsel for defendant here, with a great deal of gusto, said to the jury in the opening statement, "We will admit the speech was made, but we referred to wars—all wars, not this particular war."

384 This is the war they are talking about,—"anti-war proclamation and program. Adopted by the National Emergency Convention, St. Louis, Mo." Anti-war means against war, and this is the program that Margaret Prevey was talking about when she introduced this fellow to speak to those people down there. But they want to assume and have us understand that he made that speech down there without having this platform in mind at all.

What does he say when he starts out in his speech? He said, I have just returned from a visit over yonder (pointing to the workhouse), where three of our most loyal comrades are paying the penalty for their devotion to the cause of the working class." The record you heard read was that they were convicted for aiding and abetting Alphons Schue in violating the conscription law that was passed by the Congress of the United States. Those are his comrades. "I realize that in speaking to you this afternoon, that there are certain limitations placed upon the right of free speech. They have come to realize, as many of us have, that it is extremely dangerous to exercise the constitutional right of free speech in a country that is fighting to make democracy safe for the world. I must be exceedingly careful, prudent, as to what I say, and even more careful and more prudent as to how I say it." Why? Keep inside of the law so he don't get in jail. He was not so cocksy in the court room here today as he was down there when he made this speech.

385 "I would rather a thousand times be a free soul in jail than to be a sycophant and coward on the streets. They may put those boys in jail—and some of the rest of us in jail—but they cannot put the Socialist movement in jail. Those prison bars separate their bodies from ours, but their souls are here this afternoon." In other words, if he could have his wish, he would take these law violators, these men who opposed this war, out of that

workhouse and bring them over and set them on the platform, so that they might aid in the opposition to the successful prosecution of this war. That is what he intended to do.

Let us see about this anti-war platform. His attorney said this platform was not in mind, and hadn't anything to do with that speech, and hadn't anything to do with the intent. Let us see whether it hadn't anything to do with the intent. I say that the defendant in this case went down there to carry out everything that was in that platform, and the man that stands on that platform and advocates its teachings is a traitor to the United States and ought to be prosecuted, imprisoned or shot, if there was such a law permitted in this country.

Let us see what they say in this platform: "The Socialist Party of the United States in the present grave crisis——" Do you remember what Mr. Debs says here about the grave crisis? He speaks about the grave crisis, and that they have to be careful what
386 they say. Here it is in the platform. Let us see what he says on that subject: "It is true that these are anxious, trying days for us all—testing days for the women and men who are upholding the banner of the working class in the struggle of the working class of all the world against the exploiters of all the world; a time in which the weak and cowardly will falter and fail and desert. They lack the fiber to endure the revolutionary test; they fall away; they disappear as if they had never been. On the other hand, they, who are animated with the unconquerable spirit of the Social revolution, they who have the moral courage to stand erect and assert their convictions, stand by them; fight for them; go to jail or to hell for them, if need be—they are writing their names in fadeless letters in the history of mankind." Is there any doubt about what he is talking about? He wants to bring the Bolsheviki here to the United States. That is what he is talking about, and that is what he has in mind.

Let us see what else he says here on this platform and in his speech down at Canton. He speaks of internationalism and working class solidarity the world over. In other words, pitch them all together—all of the nations of the world in one pot. Then you will have internationalism, with the Socialists on top. Put them in one pot and shake them up. Then you have internation-
387 alism—no United States, no Germany, no France, no England. The form of government that we have here is good enough for me and for the people of this country, and I don't propose that Eugene V. Debs shall overturn what means so much to us for the chance and the doubt of some theories that they have, and label it under the head of internationalism.

Let us see what he says further on that subject. "Keep fore-square with the principles of the international movement." That is Debs' speech, and here is the platform—" solemnly reaffirms its allegiance to the principle of internationalism and working class solidarity the world over. Now, it says in one place in this platform: "The Socialist Party of the United States is unalterably

opposed to the system of exploitation and class rule which is upheld and strengthened by military power and sham national patriotism." Did you ever hear of any sham patriotism in this country, when all classes are out fighting, the rich and the poor alike? "We therefore call upon the workers of all countries to refuse support to their government in their wars." Does it make any exceptions to the United States? When the workers refuse to support their governments, that means to call upon them to refuse to support the United States. Doesn't it come pretty near to being treason? "The wars of the contending national groups of capitalists are not
388 the concern of the workers. The only struggle which would justify the workers in taking up arms is the great struggle of the working class of the world to free itself from economic exploitation and political oppression, and we particularly warn the workers against the snare and delusion of so-called defensive warfare." They don't even want us to defend our own country, if we are in danger of invasion from Germany or any other power. They warn these half-bakes about the dangers of the so-called defensive warfare. Isn't he a pretty dangerous man to be let running around here telling people what they ought to do? He voted for this platform and says that he is bound by it. "As against the false doctrine of national patriotism we uphold the idea of international working-class solidarity. In support of capitalism, we will not willingly give a single life or a single dollar; in support of the struggle of the workers for freedom we pledge our all." "The mad orgy of death and destruction which is now convulsing unfortunate Europe was caused by the conflict of capitalist interests in the European countries."

His entire speech, practically, is given up to attack on Rockefeller and the capitalists, and this, that and the other things. What for? To create dissension among his hearers so that they will refuse to perform their duties as soldiers when they are enrolled, and when these witnesses here who heard that speech were enrolled as part of the army of the United States.

389 That is the purpose of that speech. I assume that he has sense enough and brains enough to comprehend what he was talking about, and what the effect of it was when it got into the heads of these people. The entire speech is to make these boys understand and realize that they are fighting for the capitalists—for the bond holders—for the Rockefellers, and that therefore they should not fight. Suppose you believed that, and you were in the army and they would call upon you to put up a fight for the national honor, or to preserve the democracy that we have in this country, or for any other such reasons; would you go and fight with the same spirit? Why, of course you wouldn't. You would take to the tall timbers as soon as you got a chance. You would get away from there. You wouldn't fight. And that is the purpose of Debs' speech.

And then he speaks about the junkers of the United States, and says that we are starving ourselves to benefit these junkers, by send-

ing wheat over to the foreign countries, to our allies; and he ta
about the coal we are sending over, when we are depriving oursely
What for? To make these men insubordinate; to refuse to ob
the laws of this country. That is the purpose of this speech, a
that was the effect of that speech on anybody's mind who was n
well balanced, and who don't understand the fallacy of the thin
he holds up.

390 Let us go a little further with this platform. It says: "T
six million men of all countries and races who have be
ruthlessly slain in the first thirty months of this war, the millions
others who have been crippled and maimed, the vast treasures
wealth that have been destroyed, the untold misery and sufferin
of Europe, have not been sacrifices exacted in a struggle for pri
ciples or ideas, but wanton offerings upon the alter of private profit.
Then it goes on: "The forces of capitalism which have led to th
war in Europe are even more hideously transparent in the war re
cently provoked by the ruling class of this country."

The Constitution says how they shall declare war in this country
This war was declared according to the Constitution. The peopl
declared it. Our representatives in Congress act for us just the sam
as if we were there personally speaking for ourselves.

And then this platform goes on: "Our entrance into the European
war was instigated by the predatory capitalists in the United State
who boast of the enormous profit of seven billion dollars from th
manufacture and sale of munitions and war supplies, and from th
exportation of American food stuffs and other necessaries. They ar
also deeply interested in the continuance of war and the success o
the allied arms through their huge loans to the government

391 of the allied powers and through other commercial ties. I
is the same interests which strive for imperialistic domina
tion of the Western Hemisphere." That is the platform.

Now, see what Mr. Debs says about this, showing how he got his
idea of what to say out of this platform, and that he had this plat-
form in mind when he made this speech at Canton. "And they
swap their millions for the titles; so that matrimony, with them,
becomes entirely a matter of money (laughter), literally so. These
very gentry, who are today wrapped up in the American flag, who
make the claim that they are the only patriots, who have their mag-
nifying glasses in hand, who are scanning the country for some evi-
dence of disloyalty, so eager, so ready to apply the brand to the
men who dare to even whisper opposition to junker rule in the
United States. No wonder Jackson said that 'Patriotism is the last
refuge of scoundrels.' He had the Wall Street gentry in mind, or
their prototypes, at least; for in every age it has been the tyrant,
who has wrapped himself in the cloak of patriotism, or religion, or
both. (Shouts of 'Good, good,' from the crowd. Applause)."

A fertile field he had down there to spread those false statements
about the junkers in this country, about Wall Street declaring this
war! You are men of intelligence. You know why we are in

392 this war, what the purpose is, and what the object is. He
gets this out of this platform and goes down and speaks to

these people in this audience. Do you expect them to be good soldiers, and to support this war? And then he comes in here and tries to creep out from under this proposition.

He says further: "every one insists through his newspapers that he is fighting to make democracy safe in the world. What humbug! What rot! What false pretense! These autocrats, these tyrants, these red-handed robbers and murderers, the patriots, while the men who have the courage to stand up face to face with them and fight them in the interest of their exploited victims—they are the disloyalists and traitors. If this be true, I want to take my place side by side with the traitors in this fight." That is his attitude,—to bring about insubordination and refusal of duty.

And he goes on along this line—some more information he got out of this platform. Speaking of Rockefeller, he says: "Every move he makes hastens the coming of his doom. Every time he and his class strike a blow at the Socialist movement, it reacts upon them. Every time they strike us, they hit themselves. It never fails. Every time they strangle a Socialist newspaper, they add a thousand voices proclaiming the eternal truth of the principles and doctrines of Socialism. They help us in spite of themselves.

393 Socialism is a growing idea, an expanding philosophy. It is spreading over the face of the earth. It is as useless to resist it as it would be to try to arrest the sunrise on the morrow. It is coming, coming, coming, all along the line. Can't you see it? If you can't consult an oculist; there is something the matter, you are lacking in vision, in common understanding. The greatest movement in history. What a privilege it is to serve it. I have regretted a thousand times that I can do so little for the movement that has done so much for me. The little that I am, the little that I am hoping to be, is due wholly to the Socialist movement. It gave me my ideas and my ideals; and I wouldn't exchange all of them for all of Rockefeller's bloodstained dollars." Socialism! Was that a patriotic speech to promote the cause of the United States in this war? The speech down there was to throttle the United States in this war and bring about anarchy and misrule, the same as they brought it about in Russia, so that it is necessary to take the soldiers from this country over to Russia to preserve the lives of those people, to deliver them from the very condition that he seeks to bring about in the United States.

This platform says: "The war of the United States against Germany cannot be justified even on the plea that it is a war in defense of American rights or American 'honor.' " That is the platform.

394 Isn't that the principle that he has been talking about down there in that speech? Did he have any intent to stand on this platform and commit that offense down there? There is no doubt about it; there can be no doubt about it.

He says in his speech that the cause of the Allies is the same as the Central Powers, to-wit, plunder. That is what he says to these people. The cause of the Allies is the cause of the United States today. Mr. Debs says to that audience of people down at Canton that the cause of the Allies is the cause of plunder. He speaks a

falsehood, because it is not for the idea of plunder that the U
States is in this war.

Now, let's see a little more about that platform—wheth
stands on it or whether he don't and what he had in mind
he made that speech down there. This platform is the one
was adopted at St. Louis, and Mr. Debs voted for it and said
he stood on it, and that he would die before he would go back
Here is what it says: "We brand the declaration of war by our
ernment as a crime against the people of the United States
against the nations of the world." Was there any loyalty in
bunch out there in St. Louis when they passed that platform?
whole outfit ought to be tried for treason. If it had been any
country in the world they would have faced a firing s
395 long ago. "In all modern history there has been no
more unjustifiable than the war in which we are abo
engage. No greater dishonor has ever been forced upon a p
than that which the capitalist class is forcing upon this na
against its will."

This is the capitalist class that is being talked about, and
platform is the basis of his speech down at Canton. That is w
he gets it from.

Now let's see what Mr. Debs says on page twenty-seven of
speech: "And you need to find yourself—to know yourself.
need to know that you are fit for something better than slavery
cannon fodder." Why does he say that? Because the platf
says: "We brand the declaration of war by our government
crime against the people of the United States and against the
tions of the world. In all modern history there has been no
more unjustifiable than the war in which we are about to engag
What do you think the effect of that speech was down there—
for something better than slavery and cannon fodder"? "You n
to know that you were not created to work and to produce to imp
erish yourself and to enrich an idle exploiter. You need to k
that you have a soul to develop, a manhood to sustain. You nee
know that it is your duty to rise above the animal plane."

What is that? Social revolution in this country, like they h
in Russia. That is what he is talking to these people abo
396 That is what that platform is about, and that is what we wo
have in this country if men like Debs and his class were
control in this country, or had a majority in this country.

Here is what he says: "You need to know that you are on
edge of a great new world. You need to get in touch with yo
comrades; you need to become conscious of your interest and yo
power as a class. You need to know that you belong to the gr
majority. You need to know as long as you are ignorant, as lo
as you are indifferent, as long as you are content, as long as you
unorganized, you will remain exactly where you are (Applause)
Now let's see what it says in the platform: "We pledge ourselves
the following course of action: 1. Continuous, active, and pub
opposition to the war, through demonstrations, mass petitions, a
all other means within our power." Wasn't that what Debs w

doing down there? That is just what the platform says. "2. Unyielding opposition to all proposed legislation for military or industrial conscription. Should such conscription be forced upon the people, we pledge ourselves to continuous efforts for the repeal of such laws and to the support of all mass movements in opposition to conscription. We pledge ourselves with all our strength any attempt to raise money for payment of war expense by taxing
397 the necessaries of life or issuing bonds which will put the burden upon future generations. We demand that the capitalist class, which is responsible for the war, pay its cost. Let those who kindled the fire, furnish the fuel." That is Debs' speech, isn't it?

Now, let's see what Triner says, the chap from Chicago, who went to the meeting out there. Bear in mind that Debs was absolutely on this platform an hour before he made this speech. He wasn't going to restate it, except stronger in regard to Russia. Here is what he said a short time after out in Chicago, at the Imperial Hall: "They may call me a disloyalist and brand me as a traitor, but I shall stick to my principles. The master class pretend to wage this war for democracy, but by persecuting us they have branded this pretention a lie. I honestly hope that there may be no one present here today that will want to change the party's former attitude toward the war." This was on the 11th of August, 1918, at Chicago—less than a month ago. He don't want the party to change its attitude on the war. He stands on it. Another thing which showed that he stood on this platform, and that he intended to carry it out when he went down there to make this speech, was his statement in regard to Ruthenberg. I told you of the crime for which he was convicted and for which he is serving his sentence.

398 Now, here is Rose Pastor Stokes that he goes into ecstacies over. He says she is not guilty; that if she is guilty, so is he; and if she goes to jail, he wants to go to jail. Here is what Rose Pastor Stokes said—you heard the record—for which she got ten years: "A headline in this evening's issue of the Star reads: 'Mrs. Stokes for Government and Against War at the Same Time.' I am not for the Government." She says that she is not for the United States. Eugene V. Debs says to you, "I am with Mrs. Stokes." That means: "I am not for the United States." Doesn't it?

Gentlemen, there is a great war on. This man is charged with the crime of violating the espionage act. It is competent to show what he intended to do, what he had in mind, what his purpose was, when he made this speech down there. "I am not for the Government. I am reported as having said 'I believe the Government of the United States should have the unqualified support of every citizen in its war aims.'" You and I believe that, don't we? A citizen of this country that don't believe in that ought to be driven out of it, or not be permitted to run around loose. "I made no such statement and I believe no such thing. No government which is for the profiteers can also be for the people, and I am for the people while the government is for the profiteers."

399 It is a good bit like a story I heard one time about putting a mustard plaster on a mosqueto bite to drive the pain

away. That is the attitude that these people take; if s
makes a little money building ships or producing war mater
want to overturn the government.

Here is what Debs says about the Stokes woman: "T
her to the penitentiary for ten years. Think of it! Te
What has she said? Not any more than I have said here t
noon. I want to admit it—I want to admit without argum
if Rose Pastor Stokes is guilty, so am I. If she is guilty I
be cowardly enough to plead my innocence. And if sh
to be sent to the penitentiary ten years, so ought I."

He speaks about Kate Richard O'Hare, and here is what
"Why the other day they sent Kate Richard O'Hare to t
tentiary for ten years. Oh, just think of sentencing a woma
penitentiary for talking. The United States, under the rul
plutocracy, is the only country that would send a woman
penitentiary for exercising her constitutional right of free
If this be treason, let them make the most of it. Let me
another bit of history in connection with this case. I have
Kate Richard O'Hare intimately for twenty years.
400 her record by heart. Personally I know her as if she
own younger sister. All who know her know she is a
of absolute integrity. And they know, too, that she is a wo
courage, and they know that she is a woman of unimpe
loyalty to the Socialist movement." I don't think there
doubt about it. I think she is.

Here is what she was indicted for, and what she was co
for.—It may not be out of place at this time to refer in his
where he has taken opportunity to say: "There are 121
judges, and they are all crooks. They are appointed by co
power." That is a lie, and if he knows anything about it, he
it is a lie. It is self-evident that it is not true, and yet every
these people who were convicted here were convicted by a
their peers, and not by the court presiding in the case. Twel
sat in these cases and returned a finding of guilty—not the
Kate Richard O'Hare, in a public meeting, said that "any
who enlisted in the army of the United States for service in
would be used for fertilizer, and that is all that he was go
and that the women of the United States were nothing more
than brood sows to raise children to get into the army and be
into fertilizer." The record shows that she was found gui
twelve men, and is under sentence for that offense;
401 must assume that it is true. And Debs wants to ta
place along side of her. How much favor ought a
that kind have in a court of justice, or in any court? If
any other country in the world he would be facing a firing
after a trial on the head of a drum, and not after days and d
pain and effort to give him a fair, just and equitable trial.

Debs said, "I have to be careful what I say. I am care
what I say so the authorities won't get me." And he told his
ence down there in his speech about this O'Hare woman

followed by Government detectives clear across the country to ge
something on her so they could arrest her. The Government don'
follow innocent people around. They don't bother you and they
don't bother me. A fellow that has to be followed around all th
time and be careful what he says knows that he is committing some
wrong. If Mrs. O'Hare didn't want detectives following her aroun
the country all she had to do was to stop violating the laws; and i
Debs didn't want any Federal officers following him around, al
he had to do was to keep inside the law and be a law abiding citizen
and then he wouldn't need to be careful what he said. One of the
attorneys said he was jealous of the rights of his country: And I
am jealous of the rights of my country. This is the greatest
country on earth—a refuge for the oppressed and the down
402 trodden; and it was procured by war and by bloodshed and by
sacrifice. Debs and his class never produced anything for
anybody anywhere except hell and devilment, like was produced in
Russia by the Bolshevik.

Now, you know, gentlemen of the jury, and I know, and every
one knows, that in a time of war the giving of military information
to an army is punishable by death. That is the law of war. This
is the only war in which we have had such an enormous army, and
I believe the statement is made that it takes ten men in the neces-
sary work of labor to sustain one soldier in the field. These fel-
lows, instead of going over and giving Germany information, find
it more profitable to create discontent here at home, to make the
people feel that they are not fighting for the honor of their country
and for the safety of democracy, and to preserve this country as
it is, but to make them think that they are fighting for plutocracy
and autocracy, that our laws are unjust and our institutions bad,
and that we are raising people for cannon fodder and slavery. Debs
is doing more damage to the cause of the United States than any
spy Germany has in the military forces of this country, in my
judgment.

Now, if men are punished for crying "fire" from which a panic
ensues and people killed, if they are punished for speaking slander-
ously about men or women, if they are punished for spread-
403 ing false reports about financial institutions, and such crimes
as that, how much more important is it that men should be
punished for attacking the honor of the country, its military forces
and its institutions. And that is just what this case is about. This
man is attacking the honor of the United States. He is sowing
poison that will interfere with the success of the army. He is mak-
ing statements that are unjustified, and that have no basis. That
is what he is charged with in this indictment. He is charged with
causing or attempting to cause, and inciting and attempting to in-
cite insubordination, disloyalty and refusal of duty in the military
forces of the United States. Those young men who said they had
their registration cards in their pockets are a part of the military
forces of the United States. You will remember that we have several
of them on the witness stand, who said they had procured these

registration cards at the time they listened to Mr. De
They are a part of the military forces, as the Court will in
He obstructed and attempted to obstruct the recruiting
ment service by the making of that speech, and he inte
it when he went down there to make it, because that i
purpose he could have. He uttered certain language
provoke and encourage resistance to the United Sta
404 promote the cause of its enemies. And when he
opposed the cause of the United States. That was
when he made that speech. And, gentlemen of the jury
to be found guilty on every count that goes to you from
I thank you.

Thereupon the Court charged the jury as follows:

405 Gentlemen of the jury, it is important that
should hear what I say. If, therefore, those of yo
removed from me have difficulty at any time in understan
I am saying. I beg of you to hold up your hand so that I
that my voice is not carrying to you.

It now becomes my duty, gentlemen of the jury, to instr
to the law of this case. In a trial to a jury there is, it ma
a division of labor; it is the duty of the Court to determi
questions of law, and it is your duty to accept that as law
Court gives to you as law. It is your duty, however, to fin
from the evidence, and with your deliberations in finding
facts in this case are, I have no right and no intention of in

It is perhaps needless for me to say to you, yet I do s
that the defendant here is to be tried just as is any other
charged with the commission of a crime; and it is your
you should perform that duty without any feeling of bia
or prejudice against the defendant, and without any feeling
sympathy or bias in his favor. All right-minded persons
doubt, a righteous indignation against murder, burglar
or similar crimes. Yet when one is put on trial
406 with such a crime, it is our duty not to permit fe
indignation toward the crime to interfere with or
calm, impartial and judicial scrutiny and weighing of the
and a determination from that evidence alone whether the
defendant is guilty of the crime for which he is on trial.

So likewise in this case. The offenses with which the
here is charged are such as can be permitted only when th
States is at war, and during a time of war feeling is apt t
usually is intense. It is only natural that one should have
of righteous indignation during a time of war against any
forms of disloyalty or seditious conduct, tending in any
oppose the cause of one's own country, or to favor the cau
enemies of one's country. Yet a person, it is needless to say,
with a crime of this character, is entitled to be tried an
guilty only upon the same kind and character of evidence

accordance with the same rules of law as applies in times of pe
and to other kinds of crimes.

The defendant here is presumed always to be innocent u
proved guilty beyond a reasonable doubt. And he is entitled
and should be given by you throughout this trial the full ben
of that presumption.

407 In this trial the Socialist party—Socialism—its ai
principles and programs, have to some extent, been un
discussion and have figured in the case. It is needless to say,
I do say to you that the Socialist party is not on trial here, and
defendant here is not being tried because he is a member of t
party or a leader in it, but he is only on trial and should only
tried upon the charges made against him in this indictment.

Your views with respect to the Socialist party, or its principles a
aims, whether favorable or adverse thereto, must not influence y
in weighing and scrutinizing the evidence, and determining whet
or not the evidence proves the defendant guilty beyond a reasona
doubt of the specific crimes charged against him in this indictme
At the same time one's political opinions cannot, any more th
one's religious opinions, be accepted as a justification or excuse
committing an overt act made criminal by the law of the land; a
if the evidence shows beyond a reasonable doubt that the defend
is guilty of any one or more of the offenses charged against him
this indictment, the fact that his acts and utterances may have be
made in furtherance of the purposes and policies of a political pa
or a political conviction is not, in the law, an excuse or a defen

The fact that the indictment has been presented by t
408 grand jury against the defendant raises no presumption th
he is guilty of any offense. The grand jury, in presenti
an indictment, proceeds ex parte and without the presence of t
defendant, and does not pass upon the question of his guilt
innocence, but merely hears such evidence as is presented by t
government, and determines therefrom whether a sufficient prob
bility of guilt is shown to warrant the defendant being placed
trial before a petit jury.

In other words, an indictment is merely the way in which, und
our law, is framed the charge upon which a defendant is broug
to trial. His plea of not guilty thereto places the burden upon t
government of proving by evidence produced here in this trial th
the defendant is guilty beyond a reasonable doubt. The defenda
notwithstanding the presentation of the indictment, is presumed
be innocent, and this presumption is evidence in his favor a
remains with him throughout the trial, and he should be fou
not guilty unless that presumption is overcome by the eviden
beyond a reasonable doubt.

Now, inasmuch as the expression "beyond a reasonable doul
has been used frequently in this trial, and will be used frequent
by me in the course of this charge, it is proper that I should fi
define its meaning. It is a plain expression, and the common sen

meaning of it is, in my opinion, the same as it
409 ing. A reasonable doubt means just what it
a reasonable, rational doubt left in your minds a
and scrutinizing the evidence as to whether or not t
is guilty as charged. The evidence, in order to satisfy
a reasonable doubt, must produce in your minds an
viction to a moral certainty, such as you would be w
upon in the important affairs of life as they concern yo
the defendant is guilty; otherwise a reasonable doubt
main in your minds. If, however, after weighing and
the testimony as a whole, giving to each and every
proper weight and credit, you reach an abiding convictio
certainty of the defendant's guilt, such as you woul
to act upon in vital and important affairs of life as
yourselves, then it cannot be said that you entertain
reasonable doubt and it would, in that event, be your
a verdict of guilty.

If, however, there is any reasonable hypothesis or t
evidence which is more consistent with innocence rathe
it is your duty to adopt and to act upon the hypothesis
rather than of guilt, because only in that way can you
law and give to the defendant, as the law requires, the
reasonable doubt. So long as there exists in y
410 reasonable hypothesis or theory of the evidenc
with innocence rather than guilt, it cannot truly
you have reached a conviction beyond a reasonable do

At the same time it is proper that I should say that
doubt does not, by its terms, exclude all possibility of e
take. It means more than the greater weight of proba
it does not imply the absence of the possibility of error
Absolute certainty is difficult, if not impossible of att
any of the affairs of life where the exact sciences or math
not involved. Therefore, a mere captious doubt, a specul
a doubt conjured up by the ingenuity of counsel, a doub
to you by reason of an unwillingness on your part to
to feelings of mercy or sympathy, cannot, in law, be
reasonable doubt.

In brief, a reasonable doubt is one which exists or aris
insufficiency of evidence, or the lack of evidence, to prod
minds that abiding conviction to a moral certainty of gui
I have already spoken. These rules apply in this case,
fendant is entitled to the benefit of them, namely, he is n
ing the presentation of an indictment, presumed to be in
this presumption is evidence in his favor and remai
411 throughout this trial and until it is overcome
that satisfied you beyond a reasonable doubt of h

Now, gentleman, bearing in mind my caution and th
instructions, I shall proceed to state to you the offenses
this indictment against the defendant, and the law ap
each of them. The government has entered a nolle, as

as to the first, second, fifth and ninth counts or charges in the
ment. Each count and charge, of course, is a charge of a
and independent offense. This withdraws these counts or
from your consideration, and you will entirely disregard th
have withdrawn from your consideration the sixth and the
counts or charges of the indictment, and you will therefore
disregard them. Your consideration then will be limited
third, fourth, seventh and tenth counts, and this charge
delivered and directed to those four counts.

The third count or charge made against the defendant is
or about the 16th day of June, 1918, at the city of Canton,
of Stark, state of Ohio, in this district and division, and wit
jurisdiction of this court, and while the United States was
the defendant did unlawfully, wilfully and feloniously cau
attempt to cause, and incite and attempt to incite i
412 dination, disloyalty and refusal of duty in the milita
naval forces of the United States; that he did this h
and there uttering and publishing a certain speech and ad
an assembly of people, among whom were Clyde R. Mill
Dennis R. Smith, both citizens of the United States between th
of twenty-one and thirty, inclusive, and divers other citiz
the United States between the same ages, whose names are
grand jury unknown and too numerous to mention; that this
speech and address so uttered and published was in word
substance as is set forth in the third count of the indictment.

Now, this speech has been read in your presence and given
dence. Owing to its length and to the fact that it has been re
fore you and extensively commented upon in your presence
that it is too long for me to summarize in the course of the cha
shall not attempt to state its contents. But you will have t
dictment with you when you come to your deliberations in th
room, and I invite your attention to its language.

This count further charges that the defendant uttered and
lished this speech and address with the intent on his part to
or attempt to cause, or incite or attempt to incite insubordin
disloyalty, mutiny and refusal of duty in the military and
forces of the United States. Such is the offense ch
413 against the defendant in the third count.

The law under which this charge is framed is an
Congress, commonly known as the Espionage Act, approved
the 15th, 1917, and amended by a later act, approved May
1918. The part thereof defining and creating the offense ch
in this account is as follows: "And whoever, when the United
is at war, shall wilfully cause or attempt to cause, or incite
tempt to incite insubordination, disloyalty, mutiny, or refus
duty in the military or naval forces of the United States," sh
guilty of an offense and shall be punished as provided in this
Now, the elements of the offense charged, and each one of w
the government must prove beyond a reasonable doubt, are a
lows: That the United States was at war when the supposed
leged offense was committed; that the defendant either wil

caused or attempted to cause, or incited or attempted to incite insubordination, disloyalty, mutiny, or refusal of duty, in the military or naval forces of the United States; that the defendant knowingly and intentionally uttered and published the speech and address with the specific and criminal intent either to cause or attempt to cause, or incite or attempt to incite such insubordination, disloyalty, mutiny, or refusal of duty; and that the speech so uttered and published was, in substance, that is, in tenor and effect, that
414 charged and set up in the indictment here on which the defendant is being tried.

That the United States is at war and was at war on the 16th of June, 1918, is a fact, of course, judicially known to us. You will, therefore, take that element of the offense as charged as conclusively established, and this also applies to all of the remaining counts of the indictment upon which the defendant is being tried, namely, that we judicially know that the United States was then at war; and no proof is required on that subject. It is not necessary, I say to you, that the government should show that the defendant actually caused any insubordination, disloyalty, mutiny, or refusal of duty, but it will be sufficient if you are satisfied by the evidence beyond a reasonable doubt that the defendant attempted to cause or incite insubordination, disloyalty, mutiny or refusal of duty, even though no person in the military or naval forces of the United States was thereby caused to be guilty of insubordination, disloyalty, mutiny or refusal of duty.

The military forces of the United States as defined in this provision of the act and of the law, I say to you, are not limited to those actually enlisted and enrolled in the active, organized military forces. The Act of May 18, 1917, providing for the creation of an active army for the purpose of carrying on this war required that all male persons between the ages of twenty-one and thirty, both
415 inclusive, to enroll or register for military service, and it is from the men thus registered, excluding aliens who had not declared an intention to become citizens, that contingents of men are, from time to time, called into the active military forces of the United States. For the purposes of this act, and of this offense, I say to you that all such persons thus registered and enrolled, and thus subject from time to time to be called into the active service, are a part of the military forces of the United States, and a causing or attempting to cause, or inciting or attempting to incite disloyalty, insubordination, mutiny, or refusal of duty among them, or any of them, will be sufficient to constitute the crime charged under this count of the indictment.

It is proper also that I should perhaps define some of the terms used in this section of the law. "Wilful" may be defined as purposely, knowingly, or intentionally, as contradistinguished from accident-ly or inadvertently. "Insubordination" may be properly defined as disobedience to the military authorities of the United States. "Disloyalty" may be defined to mean unfaithfulness to the military authorities of the United States. "Mutiny" may be defined as rebellion and active opposition by physical force to the constituted

military authorities to which any member of the military or naval forces of the United States is subject. "Refusal of duty" may be defined to mean a refusal to perform a duty imposed or re-
416 quired by any military authority or law of the United States.

The speech or address of the defendant charged to have been made by him must, of course, be proved beyond a reasonable doubt to have been uttered and published in substance, that is, in legal tenor and effect, as charged in the indictment. I shall give you a further charge in connection with the requirements of proof in that regard after I have completed my summary of the several charges made by this indictment.

The words must be taken in their natural and ordinary meaning—in that meaning and sense by which they would be understood by persons hearing and listening to them; and you must find from the evidence that they were of such a character or nature as the natural or reasonably probable consequences thereof would be to cause or incite insubordination, disloyalty, mutiny or refusal of duty among the persons hearing and listening thereto. If you shall find from the evidence beyond a reasonable doubt that such was the natural or reasonably probable consequences and effect upon the minds of persons hearing or listening thereto, and that the defendant by the utterance and publication thereof wilfully intended that it should have the effect of causing or inciting insubordination, disloyalty, mutiny or refusal of duty, then the requirements of law in that regard will have been proved and satisfied.

417 The fourth count or charge of this indictment is based upon this same public utterance or address made at the same time and place. It is alleged that the United States was then at war, and the count charges, in substance, that the defendant, by such utterance and publication of said public speech and address to the same persons and assemblage of persons, did then and there unlawfully, wilfully and feloniously obstruct and attempt to obstruct the recruiting and enlistment service of the United States; and it is charged that said words, speech and address were uttered and published by the defendant wilfully and with an intent on his part to obstruct and attempt to obstruct the recruiting and enlistment service of the United States. That is the fourth count and charge.

This charge is also based on and framed under the provisions of Section 3, of the Act of Congress, approved June 15th, 1917, as amended May 16, 1918, commonly known as the Espionage Law. This section, so far as it is material to this charge, provides in substance as follows: "And whoever, when the United States is at war, shall wilfully obstruct or attempt to obstruct the recruiting or enlistment service of the United States" shall be guilty of an offense and shall be punished as is provided in that act.

The elements of the offense here charged, and which the
418 government must prove beyond a reasonable doubt, are the same as those of the offense charged in the third count, as to which I have already enumerated and instructed you, with this difference: the defendant here is charged with having wilfully obstructed or attempted to obstruct the recruiting or enlistment service

of the United States. You must find beyond a reasonable doubt, in addition to the other elements of the offense charged, that the defendant by this speech and public utterance on the occasion aforesaid either did wilfully obstruct or attempt to obstruct the recruiting or enlistment service of the United States, and that the speech and utterances then made by him were made with the specific, wilful and criminal intent either to obstruct or attempt to obstruct the recruiting or enlistment service of the United States.

I shall later in this charge have something further to say to you as to wilful intent and how it may be proved, and what is necessary to constitute a wilful, criminal intent. For the present, while defining the offenses charged in these several counts of the indictment, I am contenting myself merely with pointing out that a necessary element of all of these offenses is a specific, wilful, criminal intent to do the acts forbidden by these provisions of the law, and that you must find that specific criminal intent from the evidence beyond a reasonable doubt.

I say to you further that it is not necessary, in order that
419 the defendant may be found guilty under this charge, that you should find that the enlistment or recruiting service of the United States was in fact obstructed. It will be sufficient if you find beyond a reasonable doubt that the defendant attempted to obstruct the recruiting or enlistment service, and had the specific wilful intent so to do, and that he so attempted by the words, address or public speech charged by this count of the indictment. The recruiting or enlistment service of the United States is designed to enroll in the army or navy persons only who come forward voluntarily to enlist and to enrol themselves. To be sure, arguments, inducements and persuasions may be and usually are resorted to to effect that result; but whether or not anyone enrolls or enlists, or, in other words, volunteers for this service, depends upon the state of the mind of the individual. All male persons between the ages of eighteen and forty-five, both inclusive, who are citizens of the United States, or who have declared their intentions to become citizens of the United States, and who are not subjects of the nations with which we are at war, are and were then eligible for enrollment in the enlistment or recruiting service.

In weighing and scrutinizing the evidence, therefore, both in finding whether or not the evidence shows beyond a reasonable doubt that the defendant wilfully obstructed or attempted to obstruct the recruiting or enlistment service, and in also find-
420 ing from the evidence whether or not he had a specific criminal intent, either to obstruct or attempt to obstruct, it is proper that you should bear in mind this mental attitude toward the military or naval service of the individuals of that class of our population from which persons must be recruited or enlisted. And it is also proper for you to bear in mind how this attitude or disposition of mind of such individuals is or may be affected by the attitude of their friends, companions and relatives. And it is also important, in passing upon this, that you should bear in mind the natural and reasonably probable effect of such public words or

utterances as you may find the defendant to have used, upon this attitude of mind on the part of the persons from whom recruits are obtained.

The word "wilful" as here used means the same as I have defined it to you with respect to the third count of the indictment, that is, it means willingly, purposely, or intentionally, as contradistinguished from accidently or inadvertently. The word "Obstruct" may be defined to mean to hinder, to embarrass, to make progress in the recruiting or enlistment service more difficult or slow, and, in its broadest sense, it means and includes active opposition to the recruiting or enlistment service of the United States by advising or counseling, directly or indirectly, others not to enlist.

421 It is, of course, for you to say, gentlemen of the jury, whether or not the words, speech, or address, such as you may find from the evidence was uttered and published by the defendant, either obstructed or was an attempt to obstruct the recruiting or enlistment service within the definition of "obstruct" and of "recruiting" and of "enlistment" as I have defined them to you.

The seventh count or charge of the indictment is also based upon the same transaction or episode as that set up in the third and fourth counts to which I have already alluded, namely, the speech and public utterance of the defendant at Canton on the 16th of June, 1918. This count alleges that the United States, being then at war, the defendant did unlawfully, wilfully and feloniously utter and publish certain language intended to incite, promote and encourage resistance to the United States, and to promote the cause of its enemy, to-wit, the Imperial German Government; that the language uttered and published were the same words, speech or address as that set forth in the third and fourth counts of the indictment. And it is further charged that the defendant uttered and published said language wilfully, and did so with the intent to incite, provoke and encourage resistance to the United States, and to promote the cause of its enemy, the Imperial German Government. This charge is also based upon the Act of Congress approved June 15,

422 1917, as amended May 16th, 1918, commonly known as the Espionage Law. The provision thereof, so far as it is material to this charge, is, in substance, as follows: "Whoever, when the United States is at war, shall wilfully utter, print, write or publish any language intended to incite, provoke or encourage resistance to the United States, or to promote the cause of its enemies," shall be guilty of an offense, and shall be punished as is provided in this act.

The elements of this offense, each of which the government must establish by the evidence beyond a reasonable doubt, are that the United States was then at war; that the defendant wilfully uttered or published certain language; that the language thus uttered or published was intended either to incite, or provoke, or encourage resistance to the United States, or to promote the cause of its enemies; that the language charged in the indictment, or the substance thereof, must be found by you beyond a reasonable doubt to have been so uttered and published. And you must also find beyond a

reasonable doubt that the language as uttered and published was such that the natural or reasonably probable tendency and effect thereof would be to incite, provoke, or encourage resistance to the United States, or to promote the cause of its enemies; and, finally, that the defendant in uttering or publishing such language, did so wilfully and with the specific criminal intent either to incite, provoke or encourage resistance to the United States, or
423 promote the cause of its enemies. Each and all of these elements, as I have said, must be proved by the government beyond a reasonable doubt; otherwise the defendant should be found not guilty.

Now, gentlemen of the jury, it will be for you to say whether or not the government has proven beyond a reasonable doubt the utterance and publication by the defendant of the language charged in this indictment or the substance thereof; whether or not the language so uttered or published was intended either to incite, provoke or encourage resistance to the United States, or to promote the cause of its enemies; or whether the natural or reasonably probable tendency and effect of such language was either to incite, or encourage resistance to the United States, or to promote the cause of its enemies. And it is also for you to say whether or not it was uttered wilfully and with the specific criminal intent.

It is proper that I should instruct you as to what is meant by resistance to the United States, as used in this law and in this charge. The other words in the law and in the charge are plain, and were used and have been used, in my opinion, in the ordinary, every-day common-sense meaning. Resistance, I say to you, as a proposition of law, means to oppose by direct, action and quasi-forcible means
the United States; that is, the laws of the United States and
424 the measures taken under and in conformity with those laws to carry on and prosecute to a successful end the war in which the United States was then and is now engaged. Resistance means more than mere opposition or indifference to the United States or to its success in this war. It means more than inciting, provoking, or encouraging refusal of duty, or obstructing or attempting to obstruct the United States. The element of direct, active opposition by quasi-forcible means is required to constitute the offense of resisting the United States under this provision of the law and under this charge of the indictment. The offense, however, may be committed by wilfully and intentionally uttering language intended to promote the cause of the enemies of the United States without necessarily inciting, provoking, or encouraging forcible resistance to the United States. To promote means to help, to give aid, assistance, to the enemies of the United States in the waging of this war. The cause of the enemies of the United States means any and all of their military measures taken or carried on for the purpose of winning the war as against the United States. I shall not define further the expression "cause" in this connection. I shall give you a further charge on that in connection with the tenth count of this indictment, and ask you to remember that my definition and

observations with reference to "cause" applies also to this count as well.

425 The tenth count of the indictment is based upon the same transaction as set forth in the third, fourth and seventh counts, namely, the defendant's public utterances and address at Canton, Ohio, on the 16th day of June, 1918. This count alleges, in substance, that the United States, being then and there at war with the Imperial German Government, the defendant did then unlawfully, wilfully and feloniously, by words and language, oppose the cause of the United States in that war; that the words and language were spoken and uttered in the presence of the same persons as were set out in the other counts; that these words and language, or this public speech or address, so uttered and published, is the same language as is set forth in the other counts; and further charges that the defendant did wilfully, by the words and language so spoken or uttered as aforesaid, oppose the cause of the United States while at war with the Imperial German Government.

That is the offense charged in the tenth count of the indictment. In brief and in substance it is this: That while the United States was a t war, the defendant, by certain public language, spoken and uttered, did oppose the cause of the United States in that war, and that he did it wilfully and with the specific criminal intent provided in the act.

This count is also framed under the Act of Congress approved June 15th, 1917, as amended May 16, 1918, known as the

426 Espionage Law. That act, so far as it is material to the offense charged, provides in substance as follows: "Whoever shall, by word or act, oppose the cause of the United States when the United States is at war;" shall be guilty of an offense and shall be punished as is provided in this act.

The elements of this offense, each of which you must find from the evidence beyond a reasonable doubt, are that the United States was then at war; that the defendant did oppose the cause of the United States in that war; that he opposed it by words and language; that the words and language whereby he opposed it were the words and language, or the substance of the words and language, set up and charged in the indictment; and that he uttered these words and language with the specific, wilful and criminal intent to oppose the cause of the United States in that war.

The cause of the United States, as used in this act, I say to you, does not mean the reasons which induced the Congress of the United States to declare a state of war between the United States and the Imperial German Government. It does not mean, I say to you, the aims of the war in the sense of the terms of peace to be imposed, or the results to be accomplished, or the time and conditions under which it is to be brought to a termination. In plain language it means the side of the United States in the present impending

427 struggle. The words "oppose" and "cause" should be weighed and considered by you as limited to opposing or opposition to such military measures as are taken by the United

States under lawful authority for the purpose of prosecutin
war to a successful and victorious termination. The law do
forbid differences of opinion or reasonable discussion as to the
which induced Congress to declare war, or as to the results
attained by war, or at the end of the war, nor the time and con
under which the war should be brought to an end, nor any r
able and tempered discussions and differences of opinion
any or all of the measures or policies adopted in carrying
war. The law is limited to making it a crime to oppose by
or act the military measures taken by the United States, or
lawful authority by the officers of the United States for the p
of prosecuting that war to a successful end.

Each and all of the elements of the offenses charged by thes
counts of the indictment, I have already said to you, and I re
peat, must be found by you from the evidence beyond a reas
doubt. There are, however, certain general rules which app
all of these charges, which I will now proceed to state.

You will observe that the four offenses charged all grow
the same episode or transaction, that is, out of the
428 utterances of the defendant on June the 16, 1918, a
City of Canton. I say to you, in substance, as requ
by the defendant, that the number of these counts based upo
one transaction should not and must not be permitted to infl
your judgment as to the guilt or innocence of the defendant
you are not to assume that the defendant is guilty of some
because there are so many charges made against him. Each
is a separate charge of a separate and independent crime.
evidence justifies it, the defendant may be found guilty of all o
of the offenses charged in the third, fourth, seventh and tenth
of the indictment. If the evidence does not satisfy you beyo
reasonable doubt of his guilt, he should be found not guilty as to
and every count, or all the counts, as to which the evidence doe
produce in your minds a conviction of guilt beyond a reasonable d
The fact that all four offenses, however, grow out of the same ep
or transaction, that is, out of the same public utterances and
guage, does not prevent the same from being an offense unde
four counts, provided you are satisfied beyond a reasonable
that the evidence proves guilt under all four counts. The fact
there is only one transaction or episode, and that four separate
distinct violations of the criminal law may have resulted theref
is to be taken into account only by the Court in meas
429 the sentence to be imposed in the event of a verdict of g
on more than one count, and not by you in determi
whether or not the defendant is guilty or innocent as charge
each of these four counts.

I have also said to you, and I repeat, that you must find be
a reasonable doubt that the defendant uttered the words and
guage charged in these four counts of the indictment, or the
stance thereof. And I wish to say a word further to you in an
cation of that statement in the preceding parts of my charge.

is not necessary, I say to you, that the government should prove beyond a reasonable doubt that the defendant used the exact language charged in the indictment, or that he used all of the language charged therein, or that the language charged therein is all that was uttered and published by him at the time and place in question.

It is, however, necessary that the government should prove beyond a reasonable doubt that he did utter and publish the substance of the words and language therein charged; that is, language of the same tenor and effect as is therein charged. But it is not necessary that the government should prove that he used the substance of all the words and language charged. It will be sufficient, if you find beyond a reasonable doubt, that he used the exact substance, or words and language of the same tenor and effect, or so much
430 thereof as is sufficient to constitute, under the third count, the offense of wilfully causing, or attempting to cause, or inciting or attempting to incite either insubordination, disloyalty, or refusal of duty in the military forces of the United States; or, under the fourth count, as shall be sufficient to constitute the offense of wilfully obstructing or attempting to obstruct the recruiting or enlistment services of the United States; or, under the seventh, language sufficient to incite or promote or encourage resistance to the United States, or to promote the cause of its enemies; or, under the tenth count, words sufficient to amount to the offense of opposing the cause of the United States as I have defined the words "oppose" and "cause" in my charge relating to that count.

I have also said to you that you must find beyond a reasonable doubt that the defendant wilfully uttered or published these words and language, and that "wilfully" means willingly, knowingly, purposely, intentionally, as contradistinguished from accidentally or inadvertently; and that you must also find that the defendant had the specific criminal intent as charged in each of these four counts. I desire to give you a further charge on that subject in amplification of what I have already said.

Ignorance of the law, of course, excuses no man. A person charged with a crime cannot be heard to say that he did
431 not know the law; but, notwithstanding this rule, what the defendant's intention was when the words and acts are not a crime except as uttered or published with specific criminal intent, is a question of fact for you to decide from the evidence, and under all the circumstances of the particular case. The government contends, among other things, that the defendant intended either to cause insubordination, disloyalty or refusal of duty in the military forces of the United States; or that he intended to obstruct the recruiting or enlistment service of the United States; or that he intended either to incite, promote, or encourage resistance, or to promote the cause of its enemies; also, that he intended, as charged in the tenth count, to oppose the cause of the United States. The defendant contends, as I understand, among other things, that his intention in uttering these words and language in his public address was merely to convey information to his fellow citizens of the

United States in the exercise of a constitutional right of
of speech, and of freedom of assembly for the purpose of ca
and discussing public affairs. He makes further conten
course, and I do not mean to limit the contentions of the d
in any respect to the matter which I have just stated.

Now, in this connection, and as bearing on the questio
tent, I wish to give you, by paraphrase, the langu
432 learned judge, who has had to deal with the same
and he expresses the law better than I could hope to

You should be careful not to mix motive with intent. M
that which leads to the act. Intent is that which qualifie
crime may be committed with what may be regarded as a g
tive, or it may be committed with an evil motive, or it may
mitted with a good and an evil motive. To illustrate: th
of a large family steals bread for his starving children, and
deprive the owner of its value. He may have two motives-
good and the other evil, but he is guilty notwithstanding h
good motive as well as an evil motive, for the law says he n
steal at all. So in this case, no matter if the defendant's mot
purpose may have been good and had been merely that
have above stated as a part of his contention, namely, to conve
mation to his fellow citizens in the assumed exercise and in
lief that he was rightfully exercising a constitutional right
speech, he is nevertheless, guilty if he had the specific crim
tent to accomplish the acts and to produce the effects and res
bidden by the specific provisions of the law to which I have
your attention.

In passing on the question of the defendant's intent, you
also bear in mind that a person is presumed to inte
433 natural and probable consequences of his words an
In deciding what the defendant's intention was, per
to suggest to you these questions: Did he intend or expe
his words and acts would have any influence upon or be likel
adopted and followed by the young men between the ages o
teen and forty-five, or twenty-one and thirty, who heard i
did he intend or expect that they would not act upon them
cordance with his utterances or address? Ought he not t
reasonably for-seen that the natural and probable consequer
such words and utterances would or might be to cause insu
nation, disloyalty, or refusal of duty in the military forces
United States? Or to obstruct the recruiting or enlistment
of the United States? Or to incite, provoke or encourage
to resist the United States? Or to promote the cause of its en

If you find from the evidence beyond a reasonable doubt t
had a specific criminal intent to produce the results and
quences forbidden by the law, then he is guilty, no matter wh
he uttered these things in the exercise of a belief that he wa
moting some good and worthy cause. If, however, you do
find beyond a reasonable doubt such specific criminal intent,
it is equally your duty to find him not guilty.

In scrutinizing and weighing the evidence, particularly
434 weighing the words and utterances of the defendant, or su
part thereof as you may find beyond a reasonable doubt
uttered or published, you must take the words and language as
entirety and as a whole. It is by the general purport and effect,
purport and meaning of the entire utterance, that the defend
is to be judged, and not by isolated sentences taken from the co
text. The context may often qualify the meaning, purport a
effect of some particular sentence or words. Sentences and so
words standing alone may convey an entirely different meanin
and may have a natural and reasonably probable tendency to p
duce an entirely different effect or understanding on hearers, than
taken in connection with the context from which they are excerpte
It is therefore proper, I say to you, that you should and must co
sider the language as a whole.

You are also to weigh and consider these words and utteranc
in the light of all the surrounding circumstances as shown by t
evidence, the time, place and occasion when uttered, the perso
present and listening thereto. You are to give to these words the
natural, common-sense meaning, unless the context or the eviden
shows that they were used by the defendant in a sense different fro
their natural, every-day, common-sense meaning. It is the sense
which these words and utterances would be naturally unde
435 stood by persons to whom they were addressed and who hea
them, that is the important consideration in determinin
their meaning, purpose and effect.

Certain testimony was permitted to go to you as to statemen
made by the defendant at other times then the occasion charged i
the indictment. More particularly I refer to the testimony of Clyd
R. Miller, and the witness from Chicago by the name of Trine
This testimony, I then warned you, and I wish to repeat, was pe
mitted to go to you and is to be weighed by you only in enablin
you to find the intent with which the words and language wa
uttered as charged in the indictment. He is not on trial and is no
to be tried for any other offense than that charged in the indict
ment, namely, that said to have been committed by certain publi
utterances and language used on the 16th day of June, 1918, a
the band stand in Nimisila Park. Language or utterances made b
him at any other time or place is not to be weighed by you for th
purpose of enabling you to find that he uttered this language
charged, or that he committed the offense charged at that time an
place; but only if you shall find from the evidence relating thereto
beyond a reasonable doubt that he uttered the language, or the sub
stance of it, as charged, at that time and place, and that the natura
or reasonably probable tendency and effect thereof would be to
produce the results forbidden by the provisions of the law
436 then, in that event, being required to pass to a consideration
of the specific intent with which he made the utterances, you
may, for that purpose alone, weigh and consider the testimony per-
mitted to go to you as to what he said at some other times or places.

I also permitted to be read in evidence the so-called anti-war plat-

form or program of the Socialist Party, and the reco
viction of Ruthenberg, Wagenknecht and Baker, and of
Stokes, and of Kate Richard O'Hare. This evidence
received and weighed by you under the same limitati
the same purpose only as I have already stated that I p
testimony of Miller and Triner to go to you, and it
weighed and considered.

Particularly do I warn you to bear in mind that th
here is not on trial for having uttered any of the words
have been uttered by Mrs. O'Hare or by Mrs. Stokes,
which is contained in the anti-war program or pronun
the Socialist Party. He is on trial here for what he did
on the 16th day of June, 1918, and these other scraps
are merely to be received and weighed by you for the
enabling you to find what was the intent and state of his
purpose with which he made and uttered the remarks
upon that occasion.

437 Your attention, gentlemen of the jury, has also
to that provision of the Constitution of the Un
which guarantees what is called freedom of the press an
of speech, and the right of free assembly and petition for
of grievances. Now, whether or not the Espionage La
provisions of it are valid or invalid is a question of la
Court, and is not a question for you to determine. Tha
of my burdensome and unpleasant task in this trial, and
mine that question wrong, there is an orderly method for
and correction of any mistake which I shall make. It
you, gentlemen of the jury, to undertake to correct i

Now, I say to you, gentlemen of the jury, that the
Law under which the defendant here is being tried is a
stitutional law of the United States; that it is not in co
the Constitution of the United States, and not in conflict
specific provision of the Constitution of the United States
your attention has been called. This law was passed to p
public peace and public safety in a time of war. The Co
of the United States, we all concede, is the paramount la
land in times of war as well as in times of peace. But the
tional guaranty of free speech and of free press doe
438 bid the enactment of a law made to protect the pub
and public safety during war, by forbidding utte
publications which may tend to cause insubordination, disl
refusal of duty in the military or naval forces of the Unite
or may tend to obstruct the recruiting and enlistment servi
United States, or which may incite, provoke and encourage
to the United States, or promote the cause of the enemie
United States in the war; and does not forbid the passage
prohibiting anyone by words and acts opposing the caus
United States in this war. A law of that kind may legitima
constitutionally be passed, as I say, for the protection of th
peace and the public safety in a time of war, and no civil an
cal rights of a minority of the population can be preserved

tected in a time of war except by the passage and enactm
laws for the protection of the public peace and the public safet
is the minority who suffer and whose civil and political righ
be stricken down and overriden if the Congress of the United
does not make proper and legitimate laws for the protection
public peace and of public safety by the forbidding and prohi
of acts tending to have the effects and consequences that I
outlined.

For these reasons, gentlemen, it is not for you to question
it is not for me to question, the wisdom of the enactm
439 this law. It is sufficient for your purposes that I say t
as I do say to you, that the provisions of the Espionag
are the law of the land, and it is your duty to accept that law
the Court and to apply it.

The question here for you to decide, in the last analy
whether or not the words and utterances of the defendant, und
instructions already given to you, prove beyond a reasonable
that the defendant intended to commit the things forbidden
four provisions of the law, to which I have called your atte
and unless the evidence does so show beyond a reasonable d
you shall find him not guilty.

In passing upon the question of specific intent, I wish t
something additional thereto. Disapproval of war is, of c
not a crime, nor is the advocacy of peace a crime under this
unless the words or utterances by which the expression or adv
is conveyed shall have been wilfully intended by the person ma
them to commit the acts forbidden by this law, and, further
even then unless the natural and reasonably probable tendency
effect of such words and language as he may use will have the
and consequences forbidden by the law.

Every citizen, I say to you, notwithstanding the Espionage
has the right, without intending to cause insubordina
440 disloyalty or refusal of duty, or without intending to obs
the recruiting or enlistment service of the United State
without intending to resist the United States, or to promote
cause and success of its enemies, or oppose the cause of the U
States, to discuss, criticize or disapprove of any law proposed
existence, or of any policy proposed or in existence, made fo
purpose of carrying on the war.

If you shall find from the evidence here that the defendant
nothing more than that by this public speech and utterance,
intended nothing more than that by this public speech and u
ance; or even if you find that he intended more than that, but
natural and reasonably probable consequences of what he said
did would be to produce no other result or effect in the mind
his hearers, then he is not guilty, and it will be your duty, in
discharge of your oath, to find him not guilty.

If the conscious purpose of the defendant was only to state
truth as he saw it, to convey information to his fellow citizens,
the object only of bringing about the reconstruction or reshapen
by peaceful, ordinary methods, of the national policy, in accord

with what he believed to be the right and correct v
tional policy, and that he did not, in so doing,
441 wilfully to do any of the prohibited acts, he wo
event, be guilty, and it would be your duty, a
verdict of not guilty. An offense under this law, as
you, and I repeat, is committed only when the defe
specific, wilful, criminal intent, such as has been de
words and utterances have a natural and reasonably
dency to cause the results which have been forbidden
visions of the Espionage law.

The credibility of witnesses, gentlemen, and the
testimony, is for you and not for me. It is for you
the force and effect of the language used, and to ext
the meaning, the intent, and the purpose. It is for y
wilful, criminal intent, or otherwise, of the defendant,
is upon the government to prove all these beyond a rea
and if it has not done so, then it is your duty to re
of not guilty.

In conclusion I desire to repeat the warning whic
in the beginning of this charge; you must guard your
bias, prejudice, passion or fear, or against any desi
approval or to avoid the disapproval of your fellowme
to give to this evidence your careful, painstaking consi
to apply thereto the law as I have stated it to you, a
from the evidence under that law, and from no
442 erations whatever, the issue of whether or not t
is guilty or not guilty.

I have not consciously, gentlemen of the jury, durin
of the trial, or in this charge, expressed any opinion a
of this case, nor intended to give any intimation as to
about the facts or the evidence. If, from anything tha
or done, you have drawn any inference as to what I
the facts or the evidence, I beg of you to dismiss such
from your minds. That is your privilege under the
while I have the right, if I see fit to exercise it, to co
the evidence, and to express my opinion with respect
not intentionally done so, and I have now no intenti
It is left entirely with you, gentlemen of the jury, to w
dence and to return a verdict in accordance therewith.
duty and not mine, and I have no doubt that you wil
courageously and in accordance with your conscientious
ing of the evidence.

You will be furnished with a form of verdict. Aft
and eighth counts the words "Not guilty" have been
direction of the Court, because I am directing you to
verdict of not guilty as to the sixth and eighth counts.
third, fourth, seventh and tenth counts a blank
443 which you will write your finding of either gu
guilty, as your finding shall be.

It requires the unanimous agreement of all of you,
verdict cannot be returned. When you have, if you

an agreement, and have filled in these blanks, one of you, as fo
man, should sign the verdict, and then you will be brought in
the court room and your verdict received in open court.

Such requests as were made on behalf of the defendant will
refused, except to the extent to which I have given them in
charge. I will allow a general exception to the refusal of each a
all of them, although as I now recall, there is only one propositi
of law presented therein on which I have ruled distinctly agai
your request.

Gentlemen of the jury, it will be incumbent upon me to ke
you together until you have agreed. If you have not agreed
the usual hour for taking a recess, you may advise the bailiff a
provision will be made so that you can go together to lunch in t
custody of the bailiff and marshal. I suggest that because, wh
it is my duty to keep you together, I do not wish to interfere wi
your comfort during such time as you may find it necessary to co
sider this case.

444 Mr. Stedman: The defendant excepts generally to t
charge of the Court.

Defendant excepts specifically to the fact that the definition
"attempt" was not given to the jury; that the definition of "wilfu
was so limited as to exclude stubborn purpose, or evil purpose,
intent; that in defining "obstruct" the Court limited the meanin
to action in opposition, advising or counseling, omitting the oth
definitions of the same word, namely, blocking, stopping, a
preventing.

Defendant excepts to the Court instructing the jury that in dete
mining the mind or attitude of the defendant, they might take in
consideration the attitude of mind of companions and friends i
determining that of the defendant.

Defendant excepts to the Court's definition of military forces
the United States as being too broad, in that it, in substance, in
cluded all persons between the ages of twenty-one and thirty, in
clusive, and classified them as within the military and naval force
of the United States.

Defendant excepts to the court's definition of disloyalty.

Defendant excepts to that portion of the charge wherein th
Court referred to language as sufficient which might cause insul
ordination.

Defendant excepts to that portion of the Court's charge wherei
he states that free discussion is limited to reasonable and temperat
discussion.

445 Defendant excepts to the failure of the Court, in his defini
tion of reasonable consequences to be inferred from the ac
of the defendant in using the language charged, to properl
emphasize such effects as could not be reasonably included in th
intendment of the defendant.

Defendant excepts to that portion of the charge wherein th
Court states that the act and the specific provisions thereof, unde

the respective counts of the indictment to be submitted for a verdict where constitutional.

Defendant excepts to that portion of the Court's charge wherein he states that minority rights could only be protected by such laws as this:—which the Court said in substance.

Defendant excepts to that portion of the charge wherein the Court said in substance, as to the specific intent of defendant's discussion of war aims, that the defendant might criticize and condemn particular war measures or policies; and the failure to include, also, the general policy of the state of war.

446 Thereupon the jury retired and in due time returned into court with its verdict, which said verdict was a verdict finding the defendant guilty as charged in the indictment, as appears of record herein.

Thereafter, and within three days from the rendering of said verdict the defendant duly filed his written motion for a new trial, as appears of record herein, and also duly filed his written motion in arrest of judgment, as appears of record herein.

Thereafter, this matter coming on to be heard, upon the said motion for a new trial and affidavits filed in support thereof, the court, upon consideration thereof, overruled the same; to which action of the court the defendant thereupon duly excepted.

Thereupon the matter coming on to be heard upon the motion in arrest of judgment filed by the defendant herein, the court, upon consideration thereof, overruled the same; to which action of the court the defendant thereupon duly excepted.

Thereupon the court pronounced sentence and entered judgment against the defendant herein; to which action of the court the defendant thereupon duly excepted.

Now comes the defendant and presents to the court this, his bill of exceptions in narrative form, and, upon consideration thereof, the court finds that the foregoing bill of exceptions, together
447 with the exhibits hereto attached and made part hereof, is a true, correct and complete bill of exceptions, and the same is hereby allowed and signed this 15th day of October, 1918.

(Signed) D. C. WESTENHAVER,
District Judge.

448 (*Petition for Writ of Error, Filed Sept.* 14, 1918.)

In the District Court of the United States for the Northern District of Ohio, Eastern Division.

No. 4057. Criminal.

THE UNITED STATES OF AMERICA, Plaintiff,

vs.

EUGENE V. DEBS, Defendant.

Petition for Writ of Error.

Now comes Eugene V. Debs, defendant herein, and in his own proper person by Seymour Stedman, W. A. Cunnea, Joseph W. Sharts, Isaac E. Ferguson and Morris H. Wolf, his attorneys and says that on the 14th day of September, A. D. 1918, this Court entered judgment herein against this defendant, in which judgment and the proceedings, had, prior thereto in this cause, certain errors were committed, to the prejudice of this defendant, involving a construction of the Constitution of the United States, all of which will more fully appear in the assignment of errors which is filed with this petition.

Wherefore, this defendant prays that a writ of error may issue in this behalf out of the Supreme Court of the United States, for the correction of the errors so complained of, and that transcript of the record, proceedings and papers in this cause, duly authenticated may be sent to the Supreme Court of the United States.

EUGENE V. DEBS,
Defendant.
SEYMOUR STEDMAN,
W. A. CUNNEA,
JOSEPH W. SHARTS,
MORRIS H. WOLF,
I. E. FERGUSON,
Attorneys for Defendant.

449 (*Assignment of Errors, Filed Sept.* 14, 1918.)

In the District Court of the United States for the Northern District of Ohio, Eastern Division.

No. 4057. Criminal.

THE UNITED STATES OF AMERICA, Plaintiff,

vs.

EUGENE V. DEBS, Defendant.

Assignment of Errors.

Now comes Eugene V. Debs, defendant in the above entitled cause, by Seymour Stedman, William A. Cunnea, Joseph W. Sharts, Isaac E. Ferguson and Morris H. Wolf, his attorneys, in connection with his petition for writ of error, makes the following assignment of errors, which he alleges occurred on the trial of said cause.

1. That the Court erred in overruling the motion to quash the indictment in this case, and for reason thereof says:

(*a*) That the application for a venire of the Grand Jury and the order allowing the same and the drawing of the venire and the issuing of service upon said Grand Jury were all out and done the same day without public notice or opportunity for the public to be present at said drawing.

(*b*) That all names selected and placed in the jury-box were selected, not from the entire District, but from only the Eastern Division thereof; that said names were selected from several counties within said Division in proportion to their respective populations and said names were not drawn according to the respective populations of the several counties of said Northern District of Ohio, Eastern Division.

Demurrer.

That the trial court erred in overruling the demurrer to
450 the indictment and the several counts thereof.

(*a*) that said indictment and each and every count thereof is insufficient and fails to state and charge an offense under the laws of the United States;

(*b*) That each and every clause respectively of Section 3, Title 1, is of an act of June 15, 1917, as amended by Act of May 16, 1918, entitled: "An Act to punish acts of interference with the foreign relations, the neutrality, and the foreign commerce of the United States; to punish espionage, and better to enforce the criminal laws of the United States, and for other purposes", is unconstitutional in that it is in violation of an amendment to the Constitution of the United States, entitled, "Article 1, Amendments to the Constitution," as follows: "Congress shall make no law respecting an establishment of

religion, or prohibit the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of people peaceably to assemble and to petition the Government for a redress of grievances";

(*c*) That said indictment respecting counts thereof is bad in that there are several distinct and separate offenses charged and fails to allege that persons within whose presence or who may have become cognizant of the statement and acts of the defendant were not within the exceptions of the Selective Draft Law and the enlistment laws of the country.

Third Count.

2. The third count is insufficient

(*a*) in that it fails to properly charge an offense in that it does not *descent* to particulars and omits a statement of facts or circumstances constituting an offense;

(*b*) in that the statement in words and figures therein alleged to have been made and uttered by the defendant do not ap-
451 pear to be a statement of facts or circumstances, but the expression of an opinion upon the political and industrial policies and attitude of the Administration and Governments of various countries;

(*c*) in that it wholly fails to point out specifically in what way and by what fact, circumstance or statement the defendant did cause and incite, insubordination, disloyalty, muting and refusal of duty in the military and naval forces of the United States;

(*d*) in that it wholly fails to set forth particularly and by any allegation of fact or circumstance how or in what manner the defendant did attempt to cause and attempt to incite, insubordination, disloyalty, mutiny and refusal of duty in the military and naval forces of the United States;

(*e*) in that it fails to allege that Clyde R. Miller and Dennis R. Smith were within the draft age, subject to military duty, or within the military and naval forces of the United States, or in the military and naval service of the United States, or that they then and there heard of or became cognizant of any statements, speech, or address charged to have been uttered, published, made or conveyed by the said defendant;

(*f*) in that it appears that persons, respectively, alleged to have been present and alleged to be known to the Grand Jury, are not by name or description set forth and presented or described in said count.

Fourth Count.

3. The fourth count is insufficient

(*a*) in that it fails to properly charge an offense in that it does not descent to particulars and omits a statement of facts or circumstances constituting an offense;

452 (*b*) in that the statement in words and figures therein alleged to have been made and uttered by the defendant do

not appear to be a statement of facts or circumstances, but
pression of an opinion upon the political and industrial polici
attitude of the Administration and Governments of various cou

(*c*) in that it fails to allege that Clyde R. Miller, Dennis R.
and Virgil Steiner were within the draft age, subject to m
duty, or within the military and naval service of the United
or that they then and there heard of or became cognizant
statements, speech, or address charged to have been uttered
lished, made or conveyed by the said defendant;

(*d*) in that it fails to allege that Clyde R. Miller, Den
Smith and Virgil Steiner, and persons unknown to the Grand
were of draft age or subject to military duty or within the m
and naval forces of the United States, or in the military serv
the United States, or heard any language or the uttering o
statements or public speech by the defendant;

(*e*) in that it appears that persons, respectively, alleged to
been present and alleged to be known to the Grand Jury, a
by name or description set forth and presented or described i
count;

(*f*) in that it fails to allege any statement of fact, any me
manner, condition, circumstance, or utterance by the defenda
caused by the defendant, which constituted an obstruction to t
cruiting and enlistment service of the United States; or any
condition, circumstance, or utterance resulting from any p
speech or action on the part of the defendant, or state
453 made by him, wherein, as alleged, he attempted to ob
the recruiting and enlistment service of the United State

Seventh Count.

4. The seventh count is insufficient.

(*a*) in that it fails to properly charge an offense in that it
not descent to particulars and omits a statement of facts or cir
stances constituting an offense;

(*b*) in that the statement in words and figures therein allege
have been made and uttered by the defendant do not appear t
a statement of facts or circumstances, but the expression of an
ion upon the political and industrial policies and attitude of the
ministration and Governments of various countries;

(*c*) in that it fails to allege that Clyde R. Miller and Denni
Smith were a part of the military and naval forces of the U
States, or in the military and naval service of the United State
that they then and there heard of or became cognizant of the
reports or false statements charged to have been uttered, made
conveyed by the defendant;

(*d*) in that it fails to point out, designate, or charge any
guage or action intended to

(1) incite
(2) provoke
(3) encourage

resistance to the United States and to promote the cause of its enemy;

(c) in that it appears that persons, respectively, alleged to have been present and alleged to be known to the Grand Jury, are
454 not by name or description set forth and presented or described in said count.

Tenth Count.

5. The tenth count is insufficient

(a) in that it fails to properly charge an offense in that it does not descent to particulars and omits a statement of facts or circumstances constituting an offense;

(b) in that the statement in words and figures therein charged to have been made and uttered by the defendant do not appear to be a statement of facts or circumstances, but the expression of an opinion upon the political and industrial policies and attitude of the Administration and Governments of various countries;

(c) in that it fails to allege that Clyde R. Miller and Dennis R. Smith were a part of the military and naval forces of the United States, or in the military and naval service of the United States, or that they then and there heard of or became cognizant of the false reports or false statements charged to have been uttered, made, or conveyed by the defendant;

(d) in that it fails to descent to particulars and state facts and circumstances, words, language, speech, address or utterances by the defendant wherein the defendant did unlawfully and wilfully oppose the cause of the United States in the war with the Imperial German Government;

(e) in that each and every count of said indictment wherein it purports to set forth and allege the words, language, speech, false reports and false statements, literally or in substance, to have been caused, made, uttered, or conveyed by the defendant, appears to be incomplete by reason of substantial omissions and additions.

455 (6) Because of the foregoing and divers other good reasons the said indictment and each and every count thereof fails to charge an offense against the defendant; therefore, the defendant prays judgment whether he ought to be required to further plead to the indictment herein presented against him.

Empaneling Jury.

(7) The trial court erred in ruling upon qualifications of jurors as follows:

(a) That in the examination of the venire men upon their voire dire the Court erred in overruling the challenge of the defendant for cause of one Josiah T. Grant it appearing that said Grant was a pensioner of the Government and connected with same in a financial way; that the defendant afterwards was required to use one of his peremptory challenges in excusing from service said unaccept-

able juror, and thereby exhausting his peremptory challenge
said Jury was complete.

(*b*) That in the examination of the veniremen upon the
dire the Court erred in overruling the defendant's challe
cause of one Charles F. Harris for the reason that said Ha
a rural mail-carrier and connected with the Government in
cial way; that the defendant was erroneously compelled to
one of his peremptory challenges to remove said Harris,
exhausting said peremptory challenges.

Evidence.

8. The Court erred in admitting over the objection of Cou
defendant, incompetent evidence as follows:—

(*a*) the Court erroneously refused to sustain the objectio
by the defendant to the evidence of Ralph J. Miller, it ap
from his evidence that the speech made by the defend
456 different in substance and in words from the speech
in the indictment, the same constituting a variance.

(*b*) That the Court erroneously refused to sustain the mo
the defendant to strike out the evidence of Virgil Steiner
ground that his evidence, as to the words and substance of the
made by the defendant, was and is different in substance
words from the speech charged and alleged in the indictmen

9. The Court erroneously refused to sustain the objection
by the defendant to the evidence of Virgil Steiner, it appearin
his evidence that the speech made by the defendant was diffe
substance and in words from the speech charged in the indic
the same constituting a variance.

(*b*) That the Court erroneously refused to sustain the mo
the defendant to strike out the evidence of Virgil Steiner
ground that his evidence, as to the words and substance of the
made by the defendant, was and is different in substance
words from the speech charged and alleged in the indictment.

10. The Court erroneously admitted in evidence a printed
ment, Exhibit 2, same purporting to be a majority report
program submitted by the St. Louis Convention of the So
Party to the members of the Party for acceptance or rejection.

11. The Court erroneously, over the objection of the defe
admitted in evidence the indictment and judgment order im
sentence in the case of the United States vs. Kate Richards O
it appearing that it was not a complete record of said case an
ther upon statement of Counsel for defense, and the
457 so recognized it that a writ of error had been sued out i
case a supersedeas issue, and the case was pending on a

12. The Court erred in that it admitted over the objecti
counsel for defendant, the record in the case of the United
vs. Rose Pastor Stokes.

13. The Court, over the objection of the defendant, admitt
competent and irrelevant testimony of the purported speech
dress or remarks of the defendant, purported to have been ma

the City of Chicago, about August 12th, 1918, to a Convention or Assembly of State Secretaries in the Socialist Party.

14. The Court erred in curtailing and limiting the argument of the defendant to the Jury.

15. The Court erred to sustain the motion of the defendant to instruct the Jury to return a verdict of "not guilty" on the third, fourth, seventh and tenth counts at the conclusion of all the evidence.

16. The Court erred and failed to restrict the argument of counsel for the Government in commenting upon and emphasizing the case of Kate Richards O'Hare and Rose Pastor Stokes as the principal and controlling evidential facts in the case.

By leave of Court it is understood that additional assignment of errors may be filed, based upon instructions given and refused.

SEYMOUR STEDMAN,
W. A. CUNNEA,
JOSEPH W. SHARTS,
MORRIS H. WOLF,
I. E. FERGUSON,
Attorneys for Defendant.

458 (Amended Assignment of Errors. Filed Oct. 8, 1918.)

In the District Court of the United States, for the Northern District of Ohio, Eastern Division.

Amended Assignment of Errors.

THE UNITED STATES OF AMERICA, Plaintiff,

vs.

EUGENE V. DEBS, Defendant.

Now comes Eugene V. Debbs, defendant in the above entitled cause, by Seymour Stedman, William A. Cunnea, Joseph W. Sharts and Morris H. Wolf, his attorneys, and makes the following assignment of errors, which he alleges occurred on the trial of said cause.

1. That the Court erred in overruling the motion to quash the indictment in this case, and for reason thereof says:

(*a*) That the application for a venire of the Grand Jury and the order allowing the same and the drawing of the venire and the issuing of service on said Grand Jury were all out and done the same day without public notice or opportunity for the public to be present at said drawing.

(*b*) That all names selected and placed in the jury-box were selected, not from the entire district, but from only the Eastern Division thereof; that said names were selected from several counties within said Division in proportion to their respective populations

and said names were not drawn according to the respecti
tions of the several counties of said Northern District of C
ern Division.

459 *Demurrer.*

1. That the Trial Court erred in overruling the demur
indictment and the several counts thereof.

(*a*) that said indictment and each and every count
insufficient and fails to state and charge an offense under
of the United States;

(*b*) that each and every clause respectively of Section
is of an Act of June 15, 1917, as amended by Act of May
entitled: "An Act to punish acts of interference with th
relations, the neutrality, and the foreign commerce of th
States; to punish espionage, and better to enforce the crim
of the United States, and for other purposes", is unconstitu
that it is in violation of an amendment to the Constitutio
United States, entitled, "Article I. Amendments to the Cons
as follows: "Congress shall make no law respecting an
ment of religion, or prohibit the free exercise thereof; or
the freedom of speech or of the press; or the right of th
peaceably to assemble and to petition the Government for
of grievances";

(*c*) that said indictment respecting counts thereof is ba
there are several distinct and separate offenses charged
to allege that persons within whose presence or who m
become cognizant of the statements and acts of the defend
not within the exceptions of the Selective Draft Law and th
ment laws of the country.

Third Count.

2. The third count is insufficient

160 (*a*) in that it fails to properly charge an offense
it does not *descend* to particulars and omits a state
facts or circumstances constituting an offense;

(*b*) in that the statement in words and figures therein
to have been made and uttered by the defendant do not a
be a statement of facts or circumstances, but the expressio
opinion upon the political and industrial policies and attitu
Administration and Governments of various countries;

(*c*) in that it wholly fails to point out specifically in w
and by what fact, circumstance or statement the defen
cause and incite, insubordination, disloyalty, mutiny and
of duty in the military and naval forces of the United State

(*d*) in that it wholly fails to set forth particularly and
allegation of fact or circumstance how or in what manner the
ant did attempt to cause or attempt to incite, insubordina

loyalty, mutiny and refusal of duty in the military and naval forces of the United States;

(*e*) in that it fails to allege that Clyde B. Miller and Dennis R. Smith were within the draft age, subject to military duty, or within the military and naval forces of the United States, or in the military and naval service of the United States, or that they then and there heard of or became cognizant of any statement, speech or address charged to have been uttered, published, made or conveyed by said defendant;

(*f*) in that it appears that persons, respectively, alleged to have been present and alleged to be known to the Grand Jury are not by name or description set forth and presented or described in said count.

461 *Fourth Count.*

3. The fourth count is insufficient

(*a*) in that it fails to properly charge an offense in that it does not descend to particulars and omits a statement of facts or circumstances constituting an offense;

(*b*) in that the statement in words and figures therein alleged to have been made and uttered by the defendant do not appear to be a statement of facts or circumstances, but the expression of an opinion upon the political and industrial policies and attitude of the Administration and Governments of various countries;

(*c*) in that it fails to allege that Clyde R. Miller, Dennis R. Smith and Virgil Steinder were within the draft age, subject to military duty or within the military and naval service of the United States, or that they then and there heard of or became cognizant of any statements, speech, or address charged to have been uttered, published, made or conveyed by the said defendant;

(*d*) in that it fails to allege that Clyde R. Miller, Dennis R. Smith and Virgil Steinder, and persons unknown to the Grand Jury, were of draft age or subject to military duty or within the military or naval forces of the United States, or in the military service of the United States, or hear any language or the uttering of any statements or public speech by the defendant;

(*e*) in that it appears that persons, respectively, alleged to have been present and alleged to be known to the Grand Jury, are not by name or description set forth and presented or described in that count;

(*f*) in that it fails to allege any statement of fact, any method, manner, condition, circumstance or utterance by the defendant, or caused by the defendant, which constituted an obstruction to the recruiting and enlistment service of the United States, or any
462 fact, condition, circumstance or utterance resulting from any public speech or action on the part of the defendant, or statement made by him, wherein, as alleged, he attempted to obstruct the recruiting and enlistment service of the United States.

Seventh Count.

4. The seventh count is insufficient

(*a*) in that it fails to properly charge an offense, in th
not *descent* to particulars and omits a statement of facts
stances constituting an offense;

(*b*) in that the statement in words and figures there
to have been made and uttered by the defendant do not
be a statement of facts or circumstances but the expression
upon the political and industrial policies and attitude of th
istration and Governments of various countries;

(*c*) in that it fails to allege that Clyde R. Miller and
Smith were a part of the military and naval forces of t
States or in the military and naval service of the United
that they then and there heard of or became cognizant o
reports or false statements charged to have been uttered,
conveyed by the defendant;

(*d*) in that it fails to point out, designate, or charge any
or action intended to

(1) incite,
(2) provoke,
(3) encourage,

resistance to the United States and to promote the cause of i

(*e*) in that it appears that persons, respectively, allege
been present and alleged to be known to the Grand
463 not by name or description set forth and present
scribed in said count.

Tenth Count.

5. The tenth count is insufficient

(*a*) in that it fails to properly charge an offense, in th
not *descent* to particulars and omits a statement of facts
stances constituting an offense;

(*b*) in that the statement in words and figures therei
to have been made and uttered by the defendant do not
be a statement of facts or circumstances but the expression
ion upon the political and industrial policies and attitude
ministration and Governments of various countries;

(*c*) in that it fails to allege that Clyde R. Miller and
Smith were a part of the military and naval forces of t
States, or in the military and naval service of the United
that they then and there heard of or became cognizant o
reports or false statements, charged to have been uttered
conveyed by the defendant;

(*d*) in that it fails to descent to particulars and state
circumstances, words, language, speech, address or utteran
defendant wherein the defendant did unlawfully and w
pose the cause of the United States in the war with the Im
man Government;

(*e*) in that each and every count of said indictment wherein it purports to set forth and allege the words, language, speech, false reports and false statements, literally or in substance, to have been caused, made, uttered or conveyed by the defendant, appears to be incomplete by reason of substantial omissions and additions.

464 6. Because of the foregoing and divers other good reasons, the said indictment and each and every count thereof fails to charge an offense; therefore, the defendant prays judgment whether he ought to be required to further plead to the indictment herein presented against him.

Empaneling Jury.

7. (*a*) The trial court erred in overruling defendant's challenge for cause of one Josiah T. Grant, a juror, on the ground that he was a pensioner of the Government and connected with the same in a financial way; that the defendant afterwards was required to use one of his peremptory challenges in excusing from service said unacceptable juror, and thereby exhausting his peremptory challenges before said Jury was complete as is evident from the following testimony:—

Examination of Josiah T. Grant:

By Mr. Sharts:

Q. Where do you live?
A. Conneaut, Ashtabula County, Ohio.
Q. And your occupation?
A. I have been a farmer. I am retired.
Q. Mr. Grant, have you ever served in the armies of the United States?
A. Yes, sir, I have.
Q. Are you drawing a pension?
A. I am.

Mr. Sharts: If your Honor please, it was your ruling in a former case in which I appeared for the defense, that where a juror is receiving money from the Government, he is not in a position to act as an impartial juror.

465 The Court: You complete your examination of Mr. Grant on all grounds, and then I will rule on your challenge * * *.

Q. Well, Mr. Grant, do you recall ever having made the remark that you have no sympathy with Mr. Debs or his ideas?
A. I have made the remark that I had no sympathy with the Socialists. I never connected it with Mr. Debs, to my remembrance.
Q. You knew he was a Socialist?
A. How?
Q. You knew he was a Socialist?
A. Yes.

Q. Your lack of sympathy for the Socialists would include Mr. Debs, would it not?

A. My lack of what?

Q. Your lack of sympathy for the Socialists would include Mr. Debs?

A. I take them as a party.

Q. Yes. You are opposed to their ideas?

A. I am opposed to their ideas; yes, sir.

Q. Now, Mr. Grant, having that feeling and conviction of opposition to the Socialists and their ideas, do you feel that you can sit here as impartial juror in this case?

A. I wouldn't hardly.

Mr. Stedman: Challenge for cause at this time.

Examination of Mr. Grant by the Court with the result that the Court stated * * * I will overrule the challenge of this jury man for cause, and you may, of course, have your exception to the ruling of the Court.

Mr. Stedman: Exception.

(*b*) The Court erred in overruling a challenge for cause of one Charles O. Hale, thereby requiring defendant to use one *one* of his peremptory challenges in excusing from service said unacceptable juror and thereby exhausting his peremptory challenges before said jury was complete, as is evident from the following testimony:—

466

By Mr. Sharts:

Q. Have you ever expressed any opinion with regard to Mr. Debs?

A. I don't remember, now, that I have. I have had an opinion, of course, by reading.

Q. Do you recall what opinion you have formed on the subject?

A. Well, my opinion is not altogether favorable to Mr. Debs.

Q. In other words, you are unfavorably impressed?

A. Yes.

Q. With Mr. Debs, and also with his——

A. Socialist teachings.

Q. And his propaganda?

A. Yes, sir.

Q. Have you ever linked his name with the I. W. W.?

A. I don't know that I have. I don't recall.

Q. Have you, in your opinion?

A. I supposed there was a little different proposition between the Socialists and the I. W. W.

Q. But you don't know what that difference is?

A. Hardly.

Q. And your opinion with regard to the I. W. W. is what?

A. Not favorable in the least.

Q. Not in the least favorable?

A. Not in the least favorable.

Q. Mr. Hale, if the positions were reversed, and you were here as a defendant, would you be willing to be tried by a jury of men composed of persons who felt toward you as you feel toward Mr. Debs?

467 Mr. Wertz: I object.

The Court: The objection to that question will be sustained.

Mr. Stedman: Exception.

(c) The Court erred in refusing to permit James Decker, one of the prospective jury men, to answer certain questions in the voire dire examination as is evident from the following testimony:—

By Mr. Cunnea:

Q. And you believe in a limited discussion on certain lines?

A. Sure.

Q. But you don't believe in a full and free discussion of the aims of the Government?

Mr. Wertz: Object.

The Court: Objection sustained.

Mr. Cunnea: Exception.

Q. Do you believe in the right to free speech and free discussion under the Constitution?

Mr. Wertz: Object.

The Court: He may answer.

A. Well, as stated before, as long as it does not conflict with the Government's aim in the prosecution of this war.

Q. Do you understand—do you mean that free speech—free discussion along the Government line is permissible and otherwise not?

Mr. Wertz: Object.

The Court: Objection sustained.

Mr. Cunnea: I want to know just what the viewpoint of the juror is.

The Court: The view point of the juror is quite apparent to the Court, and should be apparent to you.

468 Mr. Cunnea: Exception.

(d) That in the examination of the venire men upon their voire dire, the Court erred in overruling the defendant's challenge for cause of one Charles F. Harris, for the reason that said Harris was a rural mail carrier and connected with the Government in a financial way; that the defendant was erroneously compelled to exercise one of his peremptory challenges to remove said Harris, thereby exhausting said peremptory challenges, as is evident from the following testimony:—

Re-examination of Mr. Harris:

By the Court:

Q. Mr. Harris, when was it you said you terminated your employment as a rural mail-carrier?

A. On the first—on the last of August. I simply carried during August as a temporary—to help out when they couldn't get anybody else.

Q. But you terminated your employment the first of August?

A. No, I commenced on the first of August and carried through August.

Q. Did you have a contract for carrying mail before that time?

A. No, sir.

Q. You merely helped to carry during the month of August to help out?

A. Yes sir to help out when they couldn't get anybody else to carry.

Q. And that temporary employment or help in that respect ended the first of September?

A. The first of September, yes, sir.

The Court: I will overrule the challenge to Mr. Harris for cause.

(c) The court erred in overruling challenge for cause of Charles Northard, thereby compelling defendant to use one of his
469 peremptory challenges in excusing from service said unacceptable juror and thereby exhausting his peremptory challenges, before said jury was complete, as is evidenced by the following testimony:—

By Mr. Stedman:

Q. Have you ever expressed your opinion on Socialism?

A. No, sir.

Q. How long have you lived in this city?

A. About forty-five years.

Q. You have participated in its politics?

A. No, sir; not very much.

Q. You have some, have you not?

A. Yes; a little, yes.

Q. And you have never discussed Socialism with anyone?

A. No, sir.

Q. During the entire time you have lived in this City?

A. No, sir.

Q. Have you ever heard of the subject?

A. No, not very much.

Q. You never heard of the subject of Socialism mentioned in Cleveland very much?

A. No, sir.

Q. You go up and down the thoroughfare?

A. Why, yes.

Q. Do you ever get down here near the square?

A. I pass through it every day when I am going to my work, that's all.—and going home.

Q. Did you ever hear of Debs?

A. No, sir.

Q. Do you read English?

A. Yes, sir.

470 Q. What papers?

A. I take the Plain Dealer and the Leader and the News.
Q. You read those right along?
A. Some of them; yes, sir.
Q. And you never heard the name, Eugene V. Debs?
A. No; no, sir.
Q. Where were you born?
A. Over in England. When I came here I was ten years old.
Q. When were you naturalized?
A. My father's papers.

Mr. Stedman: Challenge for cause.
The Court: Challenge for cause will be overruled.

Evidence.

8. The Court erred in admitting over the objection of counsel for defendant, incompetent evidence as follows:—

(*a*) the court erroneously refused to sustain the objection made by the defendant to the evidence of Ralph J. Miller, as is evident from the following testimony:—

Q. Did you have a conference with Mr. Debs relative to that part of the paper which you have in your hand? I mean that marked "The Majority Report"?

Mr. Stedman: We object to it.
The Court: The objection will be overruled. He may answer yes or no.
Mr. Stedman: I want to move to strike it out, upon the ground that it is a conclusion as the language used either by Mr. Debs or the witness is not shown.
The Court: Objection overruled.
Mr. Stedman: Exception.

171 Q. I hand you paper marked "Government's Exhibit 5", and ask you to examine the paper on page 2 marked with red pencil. Have you ever seen these statements before?
A. I have seen statements very similar to them; perhaps not exactly the same wording.
Q. Did you discuss the substance of what is contained in that article with Mr. Debs at Canton, Ohio, at the time you have stated, or not?
A. I did.

Mr. Stedman: I object to it.
The Court: This is preliminary. His answer is that he did. I will let that stand.
Mr. Stedman: Objected to as incompetent and drawing a conclusion from the statement where he characterizes his conclusion of something similar to another document, and then another con-

clusion as to whether they discussed it or not, without stating the language.

The Court: The ruling will stand.

Mr. Stedman: Exception.

Q. I hand you Government's Exhibit No. 6 and ask you to look at the article at the left hand side of the page at the top, and ask you if you ever saw that before?

A. I did.

Q. I will ask you whether or not you discussed the contents of that with Mr. Debs at Canton at the time you have testified you had an interview with him?

A. I discussed the contents of this particular article with Mr. Debs.

Q. Now, will you tell the jury what you said to Mr. Debs and, as nearly as you can, what Mr. Debs said to you at that time, in regard to these particular articles to which I called your attention and which you have testified you have seen before and discussed with Mr. Debs?

172 The Court: Now, in order to avoid confusion, Mr. District Attorney take them one at a time. Take Exhibit No. 1 and the pages therein and let him relate literally, as nearly as he can, or the exact substance of what was said between them in reference to No. 1.

Q. Referring to Government's Exhibit 1 and 2—the articles contained in those which you have already testified you discussed with Mr. Debs, will you tell the jury what you said to Mr. Debs on those subjects, and what he said to you?

The Court: Let us take No. 1 first.

Mr. Wertz: It is the same article, your Honor, but in different form.

The Court: All right.

A. I met Mr. Debs in the lobby of the Courtland Hotel, between 1 and 2 o'clock shortly before he was to depart for the park. I had read in the newspapers, particularly in the Plain Dealer, an article to the effect——

Mr. Stedman: I wish to object to this.

The Court: You started to state you read something in a newspaper. You need not state what the substance of it was, but as a result of what you read you then had an interview with Mr. Debs. Now, then, state what you said to Mr. Debs and what he said to you—the subject matter of it, and the exact substance as fully as you can.

The Witness: As a result of what I had read, I asked Mr. Debs if the printed reports that he had repudiated the St. Louis platform of the Socialist Party, adopted in St. Louis in April of the year

shortly after we had entered into the war—I asked him if the report that he had repudiated that so-called "anti-war" platform was true. He said that it was not true. He said, "I approve——"

473 Mr. Stedman: Just a second, I want to object to this as incompetent and immaterial until the statement alleged to have been made, or stated by Mr. Debs, is offered in evidence. It is incompetent to show intent, and incompetent to show the frame of mind or condition at this time.

The Court: The objection of counsel will be overruled, and he may have an exception.

(*b*) The court erroneously refused to sustain the objection made by the defendant to the evidence of Virgil Steiner, it appearing from his evidence that the speech made by the defendant was different in substance and in words from the speech charged in the indictment, the same constituting a variance.

By Mr. Wertz:

Q. Are the notes that you have taken—do they contain everything that you took that Mr. Debs said?
A. Yes, sir.
Q. And do they contain all that Mr. Debs said?
A. No, sir, they do not. There are some few sentences which I was unable to get, but when I did not get what he said, I omitted the whole sentence. Therefore all that I have here is contained in the indictment, but I do not have anything here he did not say.
Q. Then, I take it, so far as you got it, it is correct, but there are some things that he said that were omitted from your statement?
A. Yes, sir.

The Court: You transcribed those notes, did you?
The Witness: Yes, sir.

Mr. Stedman: I wish to make an objection to the evidence of this witness on the ground, as shown by the examination of the witness, that there is a variance between the speech set forth in the indictment and the speech as delivered.

474 Mr. Wertz: I do not think, your Honor, that it would be improper for me to say at this time that we have under subpœna the stenographer employed by the Socialists themselves who will be put on the stand following this witness.

The Court: I do not believe it will help either side, or the jury, to have a document of great length read over repeatedly in their presence. Now, I will give you the benefit of a ruling on your objection, Mr. Stedman. I am of the opinion that the Government is not requiring to prove, under the allegations of the indictment, the exact language charged in the indictment. It will be sufficient if the Government proves in substance and in legal tenor and effect the language as charged in the indictment. It is not necessary, in

law, that there should be proved all the language charged in
indictment. It will be sufficient if there is enough of it prove
substance and in legal tenor and effect, if the jury shall find be
a reasonable doubt, the elements of the crime charged. Now,
additional words were used in the speech other than that cha
in the indictment, does not, in the opinion of the Court, under
ruling, constitute a variance between the charge and the proof.
course, the additional language used, if it should be proved
additional language was used, is admissable in evidence and wi
weighed by the jury. I will therefore overrule your objection
you may have your exception.

Mr. Stedman: Exception.

(c) That the Court erroneously refused to sustain the mo
of the defendant to strike out the evidence of Virgil Steiner on
ground that his evidence, as to the words and substance of the sp
made by the defendant, was and is different in substance
words from the speech charged and alleged in the indictm
475 as is evident from the following testimony:——

Cross examination.

By Mr. Stedman:

Q. How long have you been reporting?

A. Understand, I am not a reporter.

Q. I see. Your line of business—your taking reports by sh
hand is not your occupation?

A. I am a stenographer. My practice has been taking lett
Taking reports is not my line.

Q. That is, general office work?

A. Yes, sir.

Q. You have not had experience in taking speeches?

A. No, sir.

Q. And you say what you took was materially all that was sai
There were things, in substance, that you did not get, were there no

A. Yes, sir; there were.

Mr. Stedman: I now wish to move to exclude the evidence of th
witness as to the report, on the ground that there is a variance, a
that it does not report or state in words or substance completely wh
was said.

The Court: Your objection will be overruled.

Mr. Stedman: Exception.

(d) The Court erroneously admitted in evidence a printed doc
ment, Exhibit 2, same purporting to be a majority report or w
program submitted by the St. Louis Convention of the Social
Party, for acceptance or rejection, as is evidenced by the followi
testimony:——

Mr. Stedman: If your Honor please, I am objecting to eith
Government Exhibit 1 or 2 for the following reason: If I ha

a conversation with a man and I refer to a document and he
476 unequivocally affirms the contents of that document, and my conversation with him is such as to identify it in its entirety, it might possibly be permissable to offer it in evidence to show the sentiment which I had at the time the instrument was called to my attention and the conversation took place in reference to it. If, however, I should show a man a document, and I would say in that conversation, "What is your opinion of that document?" and he says "at the time, I approve it", and that time is one year or longer prior to the date of his conversation——" "at the time it was adopted, I approved it, but at the present time I think it should be modified"—and the first statement of Miller was in substance, and the last was "should be restated in detail"——where there is no unqualified approval of it, where the approval is so qualified that you cannot say that those portions which the Government might take exception to were affirmed, then it does not show the state of mind of the individual to whose attention it is called. We cannot say from the evidence at the present time what portion, what paragraph, or what section Mr. Debs endorsed in the conversation with Mr. Miller.

Mr. Wertz: I object to that statement, your Honor.

The Court: Counsel may proceed.

Mr. Stedman: And in view of that, as we cannot say that, and that is an affirmative proposition for the Government, it is incompetent to show the state of mind of the defendant. As to the question of intent, it is wholly inadmissible for this reason: An intent goes to the method of accomplishing a result. If I say to a man that I propose to circulate a document to increase burglary or I am presented with a document which proposes a plan to increase burglary then it may be used to show intent. In other words the method pursued to accomplish these objective propositions. The
condition of mind is one thing, that is, to show that a person
477 might desire to do a thing. It is largely a question of motive, and I understand motive is not an issue in this case. The question of intent is the means used to accomplish the realization of the motive to carry it out. If I state my plan and I state it repeatedly, that is admissible to show intent. If I say I am going to kill a man with a revolver and I repeat it a dozen times, and the man is killed you introduce it to show what? Intent—method of accomplishing the execution of the individual whose life I wish to destroy. In this case there is nothing shown by the evidence that Debs intended at the time, in making his speech, to use the speech, to use the utterances, to use the phases, to use the logic for the purpose of accomplishing the crime charged; and for the purpose of intent. I submit that it is clearly incompetent for the purpose of showing the condition of mind of the defendant. It is incompetent for the reason I am stating, because there is no unqualified approbation or approval of the contents of that document. On the contrary, the evidence shows that there was not such an approval.

The Court: I am of the opinion that the objection to the introduction of the so-called St. Louis platform or War Program of the

Socialist party is not well taken upon either ground. I do
it necessary to proceed further in making that ruling than to
I therefore will overrule your objection to the admission in e
of Exhibit No. 2, and allow you, of course, your exception.
Mr. Stedman: Exception.

(e) The Court erroneously overruled motion of defen
strike answer of Joseph Triner, witness for the Governmen
evidenced by the following testimony:——

By Mr. Wertz:

Q. Who spoke at that time, if anyone spoke?

478 A. Mr. Eugene Debs.

Q. Do you recall the subject of his speech?

A. Yes, sir.

Q. What was the subject of it?

A. It seemed to be a discussion of the St. Louis platform.

Mr. Stedman: I move that the answer be stricken out.
The Court: Overruled.
Mr. Stedman: Exception.

(f) The Court erroneously allowed the Government to int
Exhibits 9, 10, 11, 12 and 13, over the objection of counsel
fendant, as is evidenced by the following testimony:—

Mr. Wertz: I desire to offer in evidence Government Exhi
10, 11, 12 and 13, respectively.
The Court: Any objection?
Mr. Stedman: I object to the first because there is no ev
showing specifically that the defendant knew the contents
instrument, and there is no evidence that he had brought ho
him in any way the contents of No. 10, No. 11, No. 12, or N
And unless there is some evidence showing that he knew th
tents of these instruments it would be incompetent.
The Court: The objection will be overruled and I allow y
exception.
Mr. Stedman: I would like to add to it that it is incompet
show a condition of mind. It is incompetent to show an i
that it is not corroborative of the address charged or set fo
the indictment, and that the address in the indictment does no
to specific, or designate any portion of the contents, context, c
pose of the pleadings offered in evidence in this case; and th
verdict certainly was not referred to. The sentence is not in
at all, and a knowledge implied and attributed to the d
479 ant as a cause for which those parties were placed on t
I think it is incompetent and irrelevant in each of t
spective counts which are now before the court in this trial.
The Court: The objections will all be overruled and exc
will be allowed.
Mr. Stedman: Exception.

(*g*) The Court erred in that it admitted, over the objection of counsel for defendant, the record in the case of the United States of America vs. Rose Pastor Stokes, as is evidenced by the following testimony:—

Mr. Wertz: I offer in evidence Government Exhibit No. 14.

Mr. Stedman: I want to urge the same reason for an objection to that which I urged to the offer of the indictment in the Ruthenberg case. I wish to add to it further that I am objecting on the ground that there is no evidence, no record produced showing a termination of that case. If the Court will permit me to go outside of the record for the statement, I will say that it has not been terminated.

The Court: I will take that as a fact; in other words, I will take it as a fact that there are error proceedings still undisposed of and pending in that case.

Mr. Stedman: Upon that I am objecting to it, for the purpose of proving a charge as a matter of record, not the fact that the charge was made, but that the charge has not been sustained. And in addition to the point which I have made, to the effect that the actual charge which was made has not been shown to have been within the knowledge of the defendant.

480 Mr. Wertz: If the Court please, I would like the record to show that we are offering these merely to show the intent with which this man made the statement.

The Court: I am not so sure that it will be so limited as that. They are necessary to be introduced in order that some aspects of the address at Canton would be understood as intelligible. The objection as made by Counsel will be overruled and an exception may be allowed. The record as tendered shows a conviction on the indictment, and the imposition of sentence. That conviction has not been as yet reversed, annulled or set aside. It is still in full force and effect. So your objection will be overruled, and your exception may be noted.

Mr. Stedman: I want to take exception to the Court's statement of the fact, on the ground that I find no evidence in this record showing whether any appeal or final adjudication, passed in the Kate O'Hare case has been, as a matter of fact, either reversed or affirmed, and further, that it is incompetent upon the basis of showing intelligently the character of the address made by Mr. Debs with reference to that, because there is no evidence that the hearers know the actual facts to which he was addressing himself or that they had any greater information than he gave in his address.

The Court: The objection will be overruled upon the additional grounds urged, and exception allowed. I deem it, however, proper that the record shall show that Counsel for the defendant, before the court ruled upon the further motion stated professionally that the proceedings had not been finally terminated, and that error proceedings were still pending.

Mr. Stedman: Exception.

(*h*) The Court erroneously, over the objection of defendant, ad-

mitted in evidence the indictment and judgmen
481 posing sentence in the case of the United States
vs. Kate Richards O'Hare, it appearing that it
complete record of said case and further upon statement
for defense that the Court so recognized it, that a writ o
been sued out in that case, a supercedeas issue and the cas
ing on appeal, as is evidenced by the following testimon

Mr. Wertz: I offer in evidence Government Exhibit
Mr. Stedman: I wish to make the same objection to t
have made heretofore, calling your attention to the fa
parently there is a bill of exceptions filed which become
the record, and that this record is incomplete in that as
vious orders which have been omitted.
The Court: The objection will be overruled and exc
be allowed.

(*i*) The Court erred in curtailing and limiting the ar
the defendant to the jury.
(*j*) The Court erred in refusing to sustain the motion
fendant to instruct the jury to return a verdict of not gu
third, fourth, seventh and tenth counts of the indictm
conclusion of all the evidence.
(*k*) The Court erred in failing to restrict the argument
for the Government in consenting upon and emphasizing
of Kate Richards O'Hare and Rose Pastor Stokes, as the
and controlling evidential facts in the case.
(*l*) The Court erred in failing to sustain defendant's
to the charge of the Court as a whole.
(*m*) The Court erred in the following particulars in
to the Jury:—

482 Defendant excepts specifically to the fact that
tion of "attempt" was not given to the jury; that
tion of "wilful" was so limited as to exclude stubborn p
evil purpose, or intent; that in defining "obstruct" the Cou
the meaning to action in opposition, advising or counseli
ting the other definitions of the same word, namely, block
ping and preventing.
Defendant excepts to the Court instructing the jury t
termining the mind or attitude of the defendant, they m
into consideration the attitude of mind of companions an
in determining that of the defendant.
Defendant excepts to the Court's definition of military
the United States as being too broad, in that it, in substance,
all persons between the ages of twenty-one and thirty, incl
classified them as within the military and naval forces of t
States.
Defendant excepts to the Court's definition of disloyalty
Defendant excepts to that portion of the charge wherein
referred to language as sufficient which might cause insubo

Defendant excepts to that portion of the Court's charge wherein he states that free discussion is limited to reasonable and temperate discussion.

Defendant excepts to the failure of the Court, in his definition of reasonable consequences to be inferred from the act of the defendant in using the language charged, to properly emphasize such effects as could not be reasonably included in the intendment of the defendant.

Defendant excepts to that portion of the charge wherein the Court states that the act and the specific provisions thereof, under the respective counts of the indictment to be submitted for a verdict,
483 were constitutional.

Defendant excepts to that portion of the Court's charge wherein he stated that minority rights could only be protected by such laws as this:—which the Court said in substance.

Defendant excepts to that portion of the charge wherein the Court said in substance, as to the specific intent of defendant's discussion of war aims, that the defendant might criticize and condemn particular war measures or policies; and the failure to include, also, the general policy of the state of war.

(*n*) The Trial Court erred in overruling the motion of defendant for a new trial for the reasons therein given.

(*o*) The Trial Court erred in overruling the motion in arrest of judgment for the reasons therein given.

Wherefore, the defendant, Eugene V. Debs, in his own proper person and by his attorneys, Seymour Stedman, William E. Cunnea, Joseph W. Sharts and Morris H. Wolf, prays that the judgment and sentence herein, may be reversed and held for naught.

SEYMOUR STEDMAN,
WILLIAM A. CUNNEA,
JOSEPH W. SHARTS,
MORRIS H. WOLF.

484 (*Order Allowing Writ of Error. Ent. Sept. 14, 1918, by Judge Westenhaver.*)

No. 4057. Criminal.

THE UNITED STATES OF AMERICA

vs.

EUGENE V. DEBS.

This 14" day of September, 1918, came Eugene V. Debs, defendant, by his attorneys, and filed and presented to this Court his petition, praying for an allowance of a writ of error and assignment of errors to be urged by him; praying also that a transcript of the rec-

ord, proceedings, papers and exhibits upon which the ju
sentence herein were rendered, duly authenticated, be
Supreme Court of the United States, and that such ot
ther proceedings may be had, as may be proper in the
On consideration whereof the Court does allow the W
and orders that said Writ of Error shall operate as a supe
that said Court has fixed a supersedeas and bail bond on b
defendant in the sum of $10,000.00 Dollars, with suret
proved by the Court, the said bond to be conditioned as re
and that defendant will duly keep and observe while
laws of the United States and not depart without the ju
this court without permission.

485 (*Bond Filed Sept.* 14, 1918.)

THE UNITED STATES OF AMERICA,
Northern District of Ohio, Eastern Division, ss:

Be it remembered, that on this 14 day of September
before me, B. C. Miller, Clerk of the United States Distr
the District and Division aforesaid, personally came
Debs as principal, and Marguerite Prevy and A. W. M
sureties, and jointly and severally acknowledged themse
to the United States of America the sum of Ten Thous
($10,000.00) to be levied of their goods and chattles, lan
ments, to and for the use of the United States aforesaid,
fault be made in the condition of this recognizance, wh
if the said Eugene V. Debs shall personally be and app
this Court from day to day hereafter pending a hearing u
of Error to the Supreme Court of the United States an
render himself to the United States Marshal; and that he
and there be present to abide the order and judgment of
or the said
The Supreme Court of the United States and not depa
diction of the Court without leave thereof; and while
will duly keep and observe the laws of the United States
then and there this recognizance to be void, otherwise to
full force and effect.

EUGENE V. DE
MARGUERITE
A. W. MOSKOVI

Taken and acknowledged before me this 14 day of
A. D. 1918.

B. C. MILLE
Clerk, U. S. District Court, N. D.
By F. J. DENZL
Depu

486 United States District Court, Northern District of Ohio, Eastern Division.

Writ of Error.

UNITED STATES OF AMERICA, *ss:*

The President of the United States to the Honorable the Judges of the District Court of the United States for the Northern District of Ohio, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said District Court, before you, or some of you, between The United States of America as plaintiff and Eugene V. Debs, defendant said case being No. 4057 on the Docket of the U. S. District Court for the Northern District of Ohio, Eastern Division, a manifest error hath happened, to the great damage of the said Eugene V. Debs as by his complaint appears. We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if the judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid with all things concerning the same, to The Supreme Court of The United States of America, together with this writ, so that you have the same at Washington in the District of Columbia on the 16th day of October next, in the said Supreme Court of the United States, to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court of The United States may cause further to be done therein to correct that error, what of right, and according
487 to the laws and customs of the United States, should be done.

Witness the Honorable Edward D. White, Chief Justice of the United States the 16th day of September, in the year of our Lord one thousand nine hundred and eighteen, and of the Independence of the United States of America the one hundred and forty-third.

[Seal of the District Court, Northern Dist. of Ohio.]

B. C. MILLER,
Clerk of the District Court of the United States for the Northern District of Ohio.
By ANNA H. ELLIOTT,
Deputy Clerk.

Allowed by
D. C. WESTENHAVER,
Judge of the District Court.

*Not exceeding 30 days from the day of signing the citation.

488 *Return on Writ of Error.*

UNITED STATES OF AMERICA,
Northern District of Ohio, ss:

In pursuance to the command of the within writ of error, I, B. C. Miller, Clerk of the United States District Court within and for said District, do herewith transmit under the seal of said court, a full, true and complete copy of the record and proceedings of said court in the cause and matter in said writ of error stated, together with all things concerning the same, in accordance with the precipe filed, to the Supreme Court of United States.

There is annexed hereto and made part of this return the writ of error and citation to said defendant in error.

Witness my official signature and the seal of said court at Cleveland, in said District, this 18th day of October, A. D., 1918, and in the 143rd year of the Independence of the United States of America

[Seal of the District Court, Northern Dist. of Ohio.]

B. C. MILLER,
Clerk.
By ANNA H. ELLIOTT,
Deputy Clerk.

489 *Citation.*

(U. S. District Court for the Northern District of Ohio, Eastern Division—No. 4057).

UNITED STATES OF AMERICA, *ss:*

To the United States of America, Greeting:

You are hereby cited and admonished to be and appear at a session of the Supreme Court of the United States, to be held at the City of Washington, in the District of Columbia, on the 16th day of October next, pursuant to a writ of error, filed in the Clerk's Office of the District Court of the United States for the Northern District of Ohio, wherein Eugene V. Debs is plaintiff in error, and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in said petition for a Writ of Error, should not be corrected, and why speedy justice for the party in that behalf should not be done.

Witness the Honorable Edward D. White, Chief Justice of the United States, this 16 day of September, in the year of our Lord one thousand nine hundred and eighteen, and of the Independence of the United States of America, the one hundred and forty-third.

[Seal of the District Court, Northern Dist. of Ohio.]

D. C. WESTENHAVER,
Judge of the District Court.

*Not exceeding — days from day of signing.

Service of the above citation is hereby acknowledged and the appearance of the United States of America is hereby entered.

E. S. WERTZ,
U. S. Attorney.

490 (*Order Withdrawing Exhibits Entered October 14th, 1918, by Judge Westenhaver.*)

No. 4057. Criminal.

THE UNITED STATES OF AMERICA

vs.

EUGENE V. DEBS.

On application of the defendants for permission to withdraw exhibits for the purpose of attaching them to a record to be certified to the Supreme Court of the United States, it is hereby ordered by the Court that all of said exhibits offered and introduced on behalf of the plaintiff be withdrawn from the files of this Court, and forwarded to the Clerk of the Supreme Court of the United States, for use at the hearing of this cause in the said Supreme Court of the United States.

491 In the District Court of the United States for the Northern District of Ohio, Eastern Division.

No. 4057.

THE UNITED STATES OF AMERICA, Plaintiff,

vs.

EUGENE V. DEBS, Defendant.

Precipe for Transcript.

To the Honorable Clerk:

Please prepare transcript of record in the above entitled cause, and include therein the following papers:

Indictment.
Motion to quash.
Demurrer.
Memorandum of opinion of Court.
Order overruling motion to quash, and demurrer.
Orders on trial, verdict, all journal entries, etc.
Motion for a new trial.
Motion in arrest of judgment.

Order overruling motion for a new trial and motion in arrest of judgment.
Order approving narrative form of testimony.
Narrative form of testimony.
Petition for writ of error.
Assignment of errors.
Amended assignment of errors.
Order allowing writ of error.
Writ of error.
Citation.
This Precipe.

Please deliver all papers to the Clerk of the Supreme Court of the United States, at Washington, D. C. in proper time as per rule of Court.

EUGENE V. DEBS.
By SEYMOUR STEDMAN,
WM. A. CUNNEA,
JOS. W. SHARTS,
MORRIS H. WOLF,
Attorneys for Defendant.

492 (*Order Extending Time to File Transcript to October 19, 1918. Entered by Judge Westenhaver.*)

No. 4057. Criminal.

THE UNITED STATES OF AMERICA

vs.

EUGENE V. DEBS.

On application of the United States Attorney and for good cause shown, it is ordered that the time for filing transcript of record in the United States Supreme Court be extended to and including October 19, 1918.

Certificate of Clerk.

NORTHERN DISTRICT OF OHIO, *ss:*

I, B. C. Miller, Clerk of the District Court of the United States for said District, do hereby certify that the annexed and foregoing pages contain a full, true and complete copy of the final record, including the bill of exceptions in narrative form, petition for writ of error, assignments of error and bond on writ of error, and all proceedings in said cause in accordance with the precipe for transcript filed by plaintiff in error, the originals of all, except certain exhibits withdrawn by leave of court are now in my custody as clerk of said court.

There is also annexed to and transmitted with such transcript of record, the writ of error and the citation issued and allowed in this case.

In testimony whereof, I have hereunto signed my name and affixed the seal of said court at Cleveland in said district this 18" day of October A. D. 1918, and in the 143rd year of the Independence of the United States of America.

[Seal of the District Court, Northern Dist. of Ohio.]

B. C. MILLER,
Clerk.

By ANNA H. ELLIOTT,
Deputy Clerk.

Endorsed on cover: File No. 26,800. N. Ohio D. C. U. S. Term No. 714. Eugene V. Debs, Plaintiff in Error, vs. The United States of America. Filed October 24th, 1918. File No. 26,800.

FILE COPY

DEC 28 1918

JAMES D. MAHER,
CLERK

BRIEF FOR PLAINTIFF IN ERROR

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, A. D. 1918.

No. 714

EUGENE V. DEBS,
Plaintiff in Error.

vs.

THE UNITED STATES OF AMERICA,
Defendant in Error.

In Error to District Court of the United States for the Northern District of Ohio.

SEYMOUR STEDMAN,
Chicago, Illinois;
WILLIAM A. CUNNEA,
Chicago, Illinois;
JOSEPH W. SHARTS,
Dayton, Ohio;
MORRIS H. WOLF,
Cleveland, Ohio;
Attorneys for Plaintiff in Error.

ISAAC EDWARD FERGUSON,
Chicago, Illinois,
Of Counsel.

CHAMPLIN LAW PRINTING CO.

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IN THE

Supreme Court of the United States

OCTOBER TERM, A. D. 1918.

No. 714

EUGENE V. DEBS,
Plaintiff in Error.

VS.

THE UNITED STATES OF AMERICA,
Defendant in Error.

In Error to District Court of the United States for the Northern District of Ohio.

BRIEF FOR PLAINTIFF IN ERROR

STATEMENT OF CASE.

(Citations to Transcript Are to Printed Record.)

On June 29, 1918, in the United States District Court, Eastern Division, of the Northern District of Ohio, the grand jury presented an indictment against Eugene V. Debs, consisting of 10 counts (1-138). All were under Section 3, Title I, of an Act of Congress of June 15, 1917, as amended by Act of May 16, 1918, known as the Espionage Act. A motion to quash was entered as to the indictment and each count thereof (139-140); also a demurrer (141-150). Both motions were denied (150-151). Before the trial 4 of the counts were withdrawn (Nos. 1, 2, 5 and 9 of the indictment (151). A verdict of not guilty was instructed as counts 6 and 8 (153), leaving only four counts for the consideration of the jury. The defendant was found not guilty upon the 10th

count, and guilty upon counts 3, 4 and 7 (154). for a new trial (155) and in arrest of judgm were overruled (157). Judgment was rendere ingly, and Mr. Debs was sentenced to serve 10 the state penitentiary of West Virginia, upo these three counts, the terms to run concurrent

As to count 3 (29-42), the charge is that on 1918, at Canton, Ohio, while the United State war with the Imperial German Government, d did unlawfully, wilfully and feloniously cause tempt to cause and incite and attempt to incit ordination, disloyalty, mutiny and refusal of the military and naval forces of the United Sta is to say, defendant made a public speech t sembly of people, among whom were citizens the ages of 21 and 30 (two of whom are name intent to cause and attempt to cause insubor etc. The speech referred to is set out in full.

Upon the introduction of testimony as to the of the speech at Canton, it appeared that th speech was considerably longer than appears i dictment, and different at many points. We contention upon this variance, since Mr. Debs to stand upon the speech as actually made, shall make our references in this brief to the m plete report, as introduced by the governme set out at this point, therefore, the fuller tex speech, in lieu of the text used in the indictme 215).

SPEECH AS REPORTED BY E. R. STERLING.

Delivered by Eugene V. Debs, at Nimisilla Park, Ohio, Sunday Afternoon, June 16, 1918.

Mr. Debs: Comrades, friends and fellow- for this very cordial greeting, this very heart tion, I thank you all with the fullest appreci

your interest in, your devotion to, the cause for which I am to speak to you this afternoon. (Applause.)

To speak for labor; to plead the cause of the men and women and children who toil; to serve the working class, has always been to me a high privilege (applause).

I have just returned from a visit over yonder (pointing to the workhouse) (laughter), where three of our most loyal comrades (applause) are paying the penalty for their devotion to the cause of the working class. (Applause.) They have come to realize, as many of us have, that it is extremely dangerous to exercise the constitutional right of free speech in a country fighting to make Democracy safe in the world. (Applause.)

I realize that, in speaking to you this afternoon, that there are certain limitations placed upon the right of free speech. I must be exceedingly careful, prudent, as to what I say, and even more careful and more prudent as to how I say it. (Laughter.) I may not be able to say all I think (laughter and applause); but I am not going to say anything that I do not think (applause). But, I would rather a thousand times be a free soul in jail than to be a sycophant and coward on the streets (applause and shouts). They may put those boys in jail—and some of the rest of us in jail—but they can not put the Socialist movement in jail (applause and shouts). Those prison bars separate their bodies from ours, but their souls are here this afternoon (applause and cheers). They are simply paying the penalty that all men have paid in all of the ages of history for standing erect, and for seeking to pave the way to better conditions for mankind (applause).

If it had not been for the men and women, who, in the past have had the moral courage to go to jail, we would still be in the jungles (applause).

This assemblage is exceedingly good to look upon. I wish it were possible to give you what you are giving me this afternoon (laughter). What I say here amounts to but little; what I see here is exceedingly important (applause). You workers here in Ohio, enlisted in the greatest cause ever organized in the interest of your class, are making history today in the face of threatening trouble of all kinds—history that is going to be read with profound interest by coming generations (applause).

There is but one thing that you have to be concerned about, and that is that you keep four-square with the principles of the international Socialist movement (applause). It is only when you begin to compromise that trouble begins (applause). So far as I am concerned, it does not matter what others may say, or think, or do, as long as I am sure that I am right with myself and the cause (applause). There are so many who seek refuge in the popular side of a great question. On account of that, I hope, as a Socialist, I have long since learned how to stand alone (applause).

For the last month I have been traveling over the Hoosier State; and, let me say to you, that, in all my connection with the Socialist movement, I have never seen such meetings, such enthusiasm, such unity of purpose; never have I seen such a promising outlook as there is today, notwithstanding the statement they have published repeatedly that our leaders had deserted us (laughter). Well, for myself, I never had much faith in leaders, anyway (applause and laughter). I am willing to be charged with almost anything, rather than to be charged with being a leader. I am suspicious of leaders, myself, and especially of the intellectual variety (applause). Give me the rank and file every day in the week. If you go to the City of Washington, and you examine the pages of the Congressional Directory, you will find that almost all of those corporation lawyers and cowardly politicians, members of Congress, and misrepresentatives of the masses—you will find that almost all of them claim, in glowing terms, that they have risen from the ranks to places of eminence and distinction. I am so glad that I can not make that claim for myself (laughter). I would be ashamed to admit that I had risen from the ranks. When I rise it will be with the ranks, and not from the ranks (applause).

When I came away from Indiana, the comrades said: "When you cross the line and get over into the Buckeye State, tell the comrades over there that we are on duty and doing duty. Give them for us, a hearty greeting, and tell them that we are going to make a record this fall that will be read all around the world" (applause).

The Socialists of Ohio, it appears, are very much alive this year. The party has been killed recently (laughter) which, no doubt, accounts for its extraordinary activity (laughter). There is nothing that helps the Socialist

party so much as receiving an occasional death blow (laughter and cheers). The oftener it is killed the more boundless, the more active, the more energetic, the more powerful it becomes.

They who have been reading the capitalist newspapers realize what a capacity they have for lying. We have been reading them lately. They know all about the Socialist party—the Socialist party movement, except what is true (laughter). Only the other day they took an article that I had written—and most of you have read it—most of you members of the party, at least—and they made it appear that I had undergone a marvelous transformation (laughter). I had suddenly become changed—suddenly come to my senses; I had ceased to be a wicked Socialist, and had become a respectable Socialist (laughter), a patriotic Socialist—as if I had ever been anything else (laughter).

What was the purpose of this deliberate misrepresentation? It is so self-evident that it suggests itself. The purpose was to sow the seed of dissension in our ranks; to have it appear that we were divided among ourselves; that we were pitted against each other, to our mutual undoing. But Socialists were not born yesterday (applause). They know how to read capitalist newspapers (laughter and applause); and to believe exactly opposite what they read (applause and laughter).

Why should a Socialist be discouraged on the eve of the greatest triumph in all the history of the Socialist movement (applause)? It is true that these are anxious, trying days for us all—testing days for the women and men who are upholding the banner of the working class in the struggle of the working class of all the world against the exploiters of all the world (applause); a time in which the weak and cowardly will falter and fail and desert. They lack the fiber to endure the revolutionary test; they fall away; they disappear as if they had never been. On the other hand, they who are animated with the unconquerable spirit of the Social revolution, they who have the moral courage to stand erect and assert their convictions; stand by them; fight for them; go to jail or to hell for them, if need be (applause and shouts)—they are writing their names, in this crucial hour—they are writing their names in fadeless letters in the history of mankind (applause).

Those boys over yonder—those comrades of ours—and how I love them—aye, they are my younger brothers (laughter and applause); their very names throb in my heart, and thrill in my veins, and surge in my soul (applause). I am proud of them; they are there for us (applause); and we are here for them (applause, shouts and cheers). Their lips, though temporarily mute, are more eloquent than ever before; and their voice, though silent, is heard around the world (great applause).

Are we opposed to Prussian militarism (laughter)? (Shouts from the crowd of "Yes, Yes"). Why, we have been fighting it since the day the Socialist movement was born (applause); and we are going to continue to fight it, day and night, until it is wiped from the face of the earth (thunderous applause and cheers). Between us there is no truce—no compromise.

But, before I proceed along this line, let me recall a little history, in which, I think, we are all interested.

In 1869 that grand old warrior of the Socialist revolution, the elder Liebknecht, was arrested and sentenced to prison for three months, because of his war, as a Socialist, on the Kaiser and on the Junkers that rule Germany. In the meantime the Franco-Prussian war broke out. Liebknecht and Bebel were the Socialist members in the Reichstag. They were the only two who had the courage to protest against taking Alsace-Lorraine from France and annexing it to Germany. And for this they were sent two years to a prison fortress charged with high treason; because, even in that early day, almost fifty years ago, the leaders, these forerunners of the international Socialist movement, were fighting the Kaiser and fighting the junkers of Germany (great applause and cheers). They have continued to fight them from that day to this (applause). Multiplied thousands of them have languished in the jails of Germany because of their heroic warfare upon the ruling class of that country (applause).

Let us come down the line a little further. You remember that, at the close of Theodore Roosevelt's second term as President, he went over to Africa (laughter) to make war on some of his ancestors (laughter) (continued shouts, cheers, laughter and applause). You remember that, at the close of his expedition, he visited all of the capitals of Europe; and he was wined and dined, dignified

and glorified by all of the Kaisers and Czars and Emperors of the old world (applause). He visited Potsdam while the Kaiser was there; and, according to the accounts published in the American newspapers, he and the Kaiser were soon on the most familiar terms (laughter). They were hilariously intimate with each other, and slapped each other on the back (laughter). After Roosevelt had reviewed the Kaiser's troops, and, according to the same accounts, he became enthusiastic over the Kaiser's troops, and said: "If I had that kind of an army, I would conquer the world" (laughter). He knew the Kaiser then just as well as he knows him now (laughter). He knew that he was the Kaiser, the Beast of Berlin. And yet, he permitted himself to be entertained by the Beast of Berlin (applause); had his feet under the mahogany of the Beast of Berlin; was cheek by jowl with that Beast of Berlin (applause). And while Roosevelt was being entertained royally by the German Kaiser, that same Kaiser was putting the leaders of the Socialist party in jail for fighting the Kaiser and the junkers of Germany (applause). Roosevelt was the guest of honor in the whitehouse of the Kaiser, while the Socialists were in the jails of the Kaiser for fighting the Kaiser (applause). Who was fighting for Democracy? Roosevelt? (Shouts of "no.") Roosevelt, who was honored by the Kaiser, or the Socialists who were in jail by the order of the Kaiser? (applause).

"Birds of a feather flock together" (laughter).

When the newspapers reported that Kaiser William and ex-President Theodore recognized each other at sight, were perfectly intimate with each other at the first touch, they made the admission that is fatal to the claims of Theodore Roosevelt that he is a great friend of the people and the champion of Democracy; they admitted that they were kith and kin; that they were very much alike; that their ideas and ideals were about the same. If Theodore Roosevelt is now the great champion of Democracy (laughter), the arch—the arch foe of autocracy (laughter), what business had he as the guest of honor of the Kaiser? And when he met the Kaiser, and did honor to the Kaiser, under the terms imputed to him, wasn't it pretty strong proof that he, himself, was a kaiser at heart? (applause). Now, after being the guest of Emperor William, the Beast of Berlin, he came back

to this country, and he wants you to send ten million men over there to kill the Kaiser (applause and laughter); to murder his former friend and pal (laughter). Rather queer, isn't it? And yet, he is the patriot, and we are the traitors (applause). And I challenge you to find a Socialist anywhere on the face of the earth who was ever the guest of the Beast of Berlin (applause), except as an inmate of his prison—the elder Liebknecht and the younger Liebknecht, the heroic son of his immortal sire.

A little more history along the same line. In 1902 Prince Henry paid a visit to this country. Do you remember him (laughter)? I do, exceedingly well. Prince Henry is the brother of King William. Prince Henry is another Beast of Berlin, an autocrat, an aristocrat, a junker of junkers—very much despised, very much despised by our American patriots. He came over here in 1902 as the representative of Kaiser Wilhelm; he was received by Congress, by several state legislatures—among others, by the state legislature of Massachusetts, then in session. He was invited there by the capitalist captains of that so-called commonwealth. And when Prince Henry came there, there was one member of that body who kept his self-respect, put on his hat, and, as Henry, the Prince, walked in, that member of the body walked out. And that was James F. Carey, the Socialist member of that body (applause). All of the rest—all of the rest of the representatives in the Massachusetts legislature—all, all of them—joined in doing honor, in the most servile spirit, to the high representative of the autocracy of Europe. And the only man who left that body was a Socialist. And yet (applause), and yet they have the hardihood to claim that they are fighting autocracy and we are in the service of the German government (applause).

A little more history along the same line. I have a distinct recollection of it. It occurred just fifteen years ago when Prince Henry came here. All of our plutocracy, all of the wealthy representatives living along Fifth avenue—all, all of them—threw their palace doors wide open and received Prince Henry with open arms. They were not satisfied with this; they got down on their stomachs; they groveled in the dust at his feet; and our plutocracy —women and men alike—vied with each other to get

down and lick the boots of the Prince Henry, the representative of the Beast of Berlin (applause). And still our plutocracy, our junkers—don't think for a moment that the junkers are confined to Germany (applause). It is precisely because we refuse to believe this they brand us as disloyalists. They want our eyes focused on the junkers in Berlin, so that we will not see those within our own borders.

I hate, I loathe, I despise junkerdom. I have no earthly use for the junkers of Germany, and not one particle more use for the junkers in the United States (thunderous applause and cheers).

They tell us we live in a great Republic; our institutions are Democratic; we are a free people (laughter). This is too much, even as a joke (laughter). It is not a subject for levity; it is an exceedingly serious matter.

To whom do the Wall street junkers in our country—to whom do they marry their daughters? After they have wrung the countless hundreds of millions from your sweat, your agony, your life-blood, in a time of war as well as in a time of peace, they invest these billions and millions in the purchase of titles of broken-down aristocrats, and to buy counts of no-account (laughter). Are they satisfied to wed their daughters to honest working men? (Shouts from the crowd: "No.") to real democrats? Oh, no. They scour the markets of Europe for fellows who have titles and nothing else (laughter). And they swap their millions for the titles; so that matrimony, with them, becomes entirely a matter of money (laughter), literally so.

These very gentry, who are today wrapped up in the American flag, who make the claim that they are only patriots, who have their magnifying glasses in hand, who are scanning the country for some evidence of disloyalty, so eager, so ready to apply the brand to the men who dare to even whisper opposition to junker rule in the United States. No wonder Johnson said that "Patriotism is the last refuge of scoundrels." He had the Wall street gentry in mind, or their prototypes, at least; for in every age it has been the tyrant who has wrapped himself in the cloak of pratiotism, or religion, or both (shouts of "good, good," from the crowd) (applause).

They would have you believe that the Socialist party consists, in the main, of disloyalists, and traitors. It is

true, in a certain sense. We are disloyalists and trai
to the real traitors of this nation (applause); to the g
that, on the Pacific coast, are trying to hang T
Mooney, in spite of the protest of the whole civil
world (applause, shouts and cheers).

I know Tom Mooney intimately,—as if he were my
brother. He is an absolutely honest, innocent man (
plause). He had no more to do with the crime w
which he is charged than I have (applause). And, if
ought to go to the gallows, so ought I. If he is gui
every man who belongs to a labor organization or to
Socialist party is, likewise, guilty.

What is he guilty of? I'll tell you. I am familiar w
his record. For years he has been fighting the battles
the working class out on the Pacific coast. He refused
be bribed or to be browbeaten. He continued loyally
the service of the working class, and for this he w
marked. They said: "He can't be bought; he refu
to be bribed, and he cannot be intimidated. Therefo
he must be murdered" (applause).

Let us review another bit of history. Do you reme
ber that Francis J. Heney, the special investigator
the National Administration, was shot down in the cou
room in San Francisco? You remember it, don't yo
The United Railways, consisting of a lot of plutocra
hide binders, organized in the Chamber of Commerc
absolutely own and control the City of San Francisc
It is their private reservation. Their will is the supre
law. Take your stand against them, you are doome
They do not hesitate to plot murder to perpetuate the
murderous regime. Tom Mooney was the only repr
sentative of the working class they could not control (a
plause). They owned the railways; they controlled t
great industries; they were the industrial masters; th
were the political rulers; from their decision there w
no appeal—the real autocrats of the Pacific coast—
infamous as any that ever ruled in Germany or any oth
country (applause). And when their rule became so co
rupt that, at last, a grand jury was found that indicte
them, and they were placed on trial, and Francis
Heney, who has just incriminated the packers and foun
another gang—the packers of Chicago—Francis
Heney, who had been selected by the national admini
tration to assist in the prosecution, this same gang, re

resented by the Chamber of Commerce; this gang of plutocrats, autocrats and hide binders, hired a murderer to shoot Francis J. Heney down in the court room, and he did. Francis J. Heney happened to live through it. But that wasn't their fault. The identically same gang that hired the murderer to kill Heney, that very same gang are also for the execution of Tom Mooney (applause). Every solitary—every one of them claims to be an arch-patriot; every one insists through his newspapers that he is fighting to make Democracy safe in the world. What humbug! What rot! What false pretense! These autocrats, these tyrants, these red-handed robbers and murderers, the patriots, while the men who have the courage to stand up face to face with them and fight them in the interest of their exploited victims—they are the disloyalists and traitors. If this be true, I want to take my place side by side with the traitors in this fight (applause).

Why the other day they sent Kate Richard O'Hare to the penitentiary for ten years. Oh, just think of sentencing a woman to the penitentiary for talking (laughter). The United States, under the rule of the plutocracy, is the only country that would send a woman to the penitentiary for ten years for exercising her constitutional right of free speech (applause). If this be treason let them make the most of it (applause).

Let me review another bit of history in connection with this case. I have known Kate Richard O'Hare intimately for twenty years. I know her record by heart. Personally, I know her as if she were my own younger sister. All who know her know she is a woman of absolute integrity (applause). And they know that she is a woman of unimpeachable loyalty to the Socialist movement (applause). When she went out into Dakota and made her speech, followed by plain clothes men in the service of the Government intent upon encompassing her arrest and her prosecution and her conviction—when she was out there, it was with the knowledge that sooner or later they would accomplish their purpose. She made a certain speech, and that speech was deliberately misrepresented for the purpose of securing her conviction. The only testimony against her was that of a hired witness. And when thirty farmers, men and women, who were in the audience she addressed—heard the speech,

when they went to Bismarck to testify in her fav
swear that she had never used the language sh
charged with having used, the judge refused to
them to go upon the stand. This would seem incr
to me, if I had not had some experience of my ow
a Federal court (applause).

Who appoints the Federal judges? The people
all of the history of the country, the working class
never named a Federal judge. There are 121, and
solitary one of them holds his position, his te
through the influence and power of corporate ca
The corporations and trusts dictate their appoint
And when they go to the bench, they go, not to
the people, but to serve the interests that placed
where they are (applause).

Why, the other day, by a vote of five to four—a
of craps game—(laughter) come seven, come ele
(laughter) they declared the child labor law uncon
tional (laughter), a law secured after twenty yea
education and agitation on the part of all kinds of
ple. And yet, by a majority of one, the Supreme C
a body of corporation lawyers—with just one sol
exception—wiped it from the statute books, and th
a Democracy, so that we may still continue to grin
flesh and blood and bones of puny little children
profits for the junkers of Wall street (applause).
this in a country that is fighting to make Democ
safe in the world (laughter). The history of this c
try is being written in the blood of the childhood
have murdered.

These are not very palatable truths to them. The
not like to hear them; and they do not want you to
them. And that is why they brand us as undesi
citizens (laughter and applause), and as disloyalists,
as traitors. If we were traitors—if we were traito
the people, we would be eminently respectable citi
of the republic; we could hold high office, and we c
ride in limousines; and could be pointed out as pe
who had succeeded in life, in honorable pursuits.
precisely because we are disloyal to the traitors tha
are loyal to the people of this country (applause).

Scott Nearing. You have heard of Scott Nearing
plause). He is the greatest teacher in the United St
(applause). He was in the University of Pennsylv

until the Board of Trustees, consisting of great capitalists, found that he was teaching true economics to the students of the university. Then they said—just as the same usurers, the same money changers, the same Pharisees, the same hypocrites said of the Judean carpenter twenty centuries ago — of Jesus Christ, who was a working man, and an agitator, and an undesirable, they said: "He is preaching a false religion." And they crucified him. And his lineal descendants said: "He is preaching false economics. We cannot crucify him, as we did his elder brother, so we will starve him to death (applause). We will discharge him and blacklist him, and make it impossible for him to get a job. He is a dangerous man; he is teaching the truth." And the truth, Oh, the truth has always been unpalatable to the class who live out of the sweat of the working class (applause).

True, Max Eastman (applause) was indicted and his paper suppressed, just as papers with which I have been connected are all suppressed. What a wonderful compliment they paid us (laughter and applause). They are afraid that we might contaminate you. You are their wards; they are your guardians (laughter). They must see to it that our vicious doctrines don't reach your ears. And so, in our Democracy, under our free institutions, they flatter our press, and they imagine that they have silenced revolutionary propaganda. What a mistake they made. We ought to pass a resolution of thanks and gratitude to them. Thousands of people, who have never heard of our paper before, are now inquiring for it, wanting to see it. They have started inquiry and curiosity in our propaganda. And woe to the man who reads our Socialist literature from curiosity. He is a goner (applause). I have known of a thousand experiments, but I have never known of a single man or woman to escape it.

John M. Work. You know John, now, don't you, who is now on the Milwaukee Leader? When I first knew John he was a lawyer out in Wisconsin. The corporation capitalists became alarmed because of the rapid advancement of the Socialist movement. So they said: "We have to engage some bright fellow to fight this." They said: "Well, John, you are a bright young lawyer; and you have a great career before you. We want

to engage you to find out all you can about S
and then proceed to counteract its baneful effe

John got some Socialist literature, and began
it; and after he had read the second volume
full-fledged Socialist, and he has been fighting
cialism ever since.

How short-sighted the ruling class is. Cu
stone blind. The exploiter cannot see beyond th
his nose. He can see a chance for an opening; h
cunning enough to know what graft is and wh
and how it can be secured, but he has no vis
the slightest. He knows nothing of the great th
world that spreads out in all directions. Tha
penalty that the exploiter pays. Rockefeller
Every move he makes hastens the coming of hi
Every time he and his class strike a blow at the
ist movement it reacts upon them. Every ti
strike us, they hit themselves. It never fails (ap
Every time they strangle a Socialist newspap
add a thousand voices proclaiming the eternal
the principles and doctrines of Socialism. Th
us in spite of themselves.

Socialism is a growing idea, an expanding phil
It is spreading over the face of the earth. It is
less to resist it as it would be to try to arrest t
rise on the morrow. It is coming, coming, com
along the line. Can't you see it? If you can't,
an oculist; there is something the matter; you a
ing in vision, in common understanding. The
movement in history. What a privilege it is to s
I have regretted a thousand times that I can d
tle for the movement that has done so much for
plause). The little that I am, the little that I a
ing to be, is due wholly to the Socialist moveme
plause). It gave me my ideas and my ideals;
wouldn't exchange all of them for all of Rocke
blood-stained dollars (cheers). It taught me
serve—a lesson to me of priceless value. It tau
the ecstacy of the hand-clasp or a comrade. It
me to hold high communion with you; it made
for me to get in touch with you; to take my pla
by side with you; to multiply myself over and over
to make me thrill with a fresh-born manhood; t
life worth while; to open the avenues; to spread

glorious vistas; to know that I am akin with all that throbs; to become class conscious; to realize that, regardless of nationality, race, creed, color or sex, every man, every woman who toils, every member of the working class—every one of them—are my comrades, my brothers, my sisters—to serve them is the highest duty of my life. (Great applause.) And, in their service, I can feel myself expand; I rise to the stature of a man; I feel that I have a right to a place on earth—a place where I can stand and help to uphold the banner of industrial freedom and of social righteousness. Yes, yes; my heart is attuned with yours. Aye, all of our hearts are melted into one great heart that throbs responsive to the Social revolution.

Here, in this assemblage (applause) I hear our heart beat responsive to the Bolsheviki of Russia. (Deafening and prolonged applause.) Yes, those heroic men and women, those unconquerable comrades, who have, by their sacrifice, added fresh luster to the international movement. Those Russian comrades, who have made greater sacrifices, who have suffered more, who have shed more heroic blood than any like men or number of men and women anywhere else on earth, they have laid the foundation of the first real Democracy that ever drew (great applause) the first real Democracy that ever drew the breath of life on God's footstool (applause). And the very first act of that immortal revolution was to proclaim a state of peace with all the world, coupled with an appeal, not to the kings, not to the emperors, not to the rulers, not to the diplomats, but an appeal to the people of all nations (applause). There is the very birth of Democracy, the quintessence of freedom. They made their appeal to the people of all nations, the Allies as well as the Central powers, to send representatives to a conference to lay down terms of peace that should be Democratic and lasting. Here was a fine—here was a fine opportunity to strike a blow to make Democracy safe in the world (applause). Was there any response to that noble appeal? And here let me say that that appeal will be written in letters of gold in the history of the world (applause). Was there any response to that appeal? (From the crowd "No.") Not the slightest.

Why, it has been charged that Leon Trotsky a
leaders of the revolution were treacherous, tha
made a traitorous peace with Germany. Let us co
that proposition, briefly. At the time of the Rev
Russia had been three years in the war. Under th
she had lost more than four millions of her soldier
or mutilated on the field of battle. She was abs
bankrupt. Her soldiers were mainly without arms
was what the Revolution—what was bequeathed
Revolution by the Czar and his regime; and, for th
dition Leon Trotsky was not responsibe, nor the B
viki. For this frightful condition, the Czar was r
sible. When Trotsky came into power and went th
the archives, they found the secret treaties—the t
that were made betwen the Czar and the French g
ment and the British government and the Italian g
ment, proposing, after the victory was achieved, t
member and disperse and destroy the Central Po
These treaties have never been repudiated. Very
has been said about them in the American press. I
a copy of these treaties showing that the purpose
Allies is exactly the purpose of the Central Powers
plause). And that is the purpose that has always
the purpose of war.

Wars have been waged for conquest, for
der. In the middle ages the feudal lords,
inhabited the castles whose towers may still be
along the Rhine—whenever one of these feudal
wished to enrich himself, then he made war on the
Why? They wanted to enlarge their domains.
wanted to increase their power, their wealth, and so
declared war upon each other. But they did not
war any more than the Wall street junkers go to
(applause). The feudal lords, the barons, the econ
predecessors of the modern capitalist, they declare
the wars. Who fought the battles? Their mise
serfs. And the serfs had been taught to believe
when their masters declared and waged war upon
another, it was their patriotic duty to fall upon on
other, and to cut one another's throats, to murde
another for the profit and the glory of the pluto
the barons, the lords who held them in contempt.
that is war in a nut-shell. The master class has al
declared the war; the subject class has always fo

the battles; the master class has had all to gain, nothing to lose, and the subject class has had nothing to gain and all to lose including their lives (applause). They have always taught you that it is your patriotic duty to go to war and to have yourselves slaughtered at a command. But in all of the history of the world you, the people, never had a voice in declaring war. You have never yet had! And here let me state a fact—and it cannot be repeated too often: the working class who fight the battles, the working class who make the sacrifices, the working class who shed the blood, the working class who furnish the corpses, the working class have never yet had a voice in declaring war. The working class have never yet had a voice in making peace. It is the ruling class that does both. They declare war; they make peace.

"Yours not to ask the question why;
Yours but to do and die."

That is their motto, and we object on the part of the awakened workers.

If war is right, let it be declared by the people—you, who have your lives to lose; you certainly ought to have the right to declare war, if you consider a war necessary (applause).

Rose Pastor Stokes. And when I mention her name (applause), I take off my hat—mentally at least. (He spoke without a hat on his head.) Here is another heroic and inspiring comrade. She had her millions of dollars. Did it restrain her an instant? Her devotion to the cause had arrested all consideration of a financial or an economic nature. She went out to render her service to the cause in this day of crises, and they sent her to the penitentiary for ten years. Think of it! Ten years! What had she said? Not any more than I have said here this afternoon (laughter). I want to admit—I want to admit, without argument, that if Rose Pastor Stokes is guilty, so am I. If she is guilty, I wouldn't be cowardly enough to plead my innocence. And if she ought to be sent to the penitentiary for ten years, so ought I.

What did she say? Why, she said that a Government—a Government could not serve both the profiteers and the victims of the profiteers. Isn't that true? Certainly.

Roosevelt said a thousand times more in the same paper, The Kansas City Star. Roosevelt said, the other day, that he would be heard if he went to jail. He knows

very well that he will not go to jail. He is laying his wires for the Republican nomination in 1920. And he would do everything possible to discredit Wilson in his administration. He would do that in order to give himself and his party all of the credit. That is your wonderful rivalry between the two patriotic parties—the Republican party and the Democratic party, the twins. They are not going to have any agitation between them this fall. They are all patriots this time, and they are going to combine to prevent the election of any disloyal Socialists. I haven't heard anybody anywhere tell me of any difference between them. Do you know of any? Not the slightest. One is in, the other is out. That is all the difference there is between them (laughter).

Rose Pastor Stokes never uttered a word she did not have a legal, constitutional right to utter. But her message for the people, the message that opened the eyes of the people—that must be suppressed; her voice must be silenced. And so she was confronted with a mock trial, and sent to the penitentiary for ten years. Her sentence was a foregone conclusion. A trial in a capitalist court usually ends farcical—very farcical. What ghost of a chance had she in a court with a packed jury and a corporation tool on the bench? Not the least in the world. So she goes to the penitentiary for ten years, if they carry out the program. I do not think they will. In fact, I am sure they will not. If the war was over tomorrow, all of the prison doors would open.

They just want to silence this voice during the war. The cases will be appealed, and they will remain pending in court many a month, perhaps years. What a compliment it is to the Socialist movement for telling the truth. The truth will make the people free (applause). And the truth must not be permitted to reach the people. The truth has always been dangerous to the rule of the rogue, the exploiter, the robber. So the truth must be suppressed. That is why they are trying to drive out the Socialist movement; and every time they make the attempt, they add ten thousand voices proclaiming that Socialism has come to stay (applause).

(Here Mr. Debs is handed a drink of water.)

How good the touch of the hand of a comrade is, and a sip of water furnished by a comrade; as refreshing as if it were out on the desert of life. And how good it is

to look into your faces this afternoon (applause). You are really good looking (laughter), to me, I assure you. And, I am glad there are so many of you. Your tribe has increased wonderfully since I first came here (laughter). You used to be so few and far between. And when you struck a place, the first thing you had to do was to see if you could locate a Socialist; and you were pretty lucky if you struck his trail before you left town. If he happened to be the only one in town, and he is still living, he is now regarded as practical, and he holds the place of honor, and he has lodgment in the heart of all those who come after him. Now here you can't throw a stone in the dark without hitting a Socialist (laughter). They are everywhere in increasing numbers; and what marvelous changes are taking place.

I went to Warren some years ago. It happened to be at the time that President McKinley was assassinated. In common with all others, I deplored that tragic event. There is not a Socialist, who would have been guilty of that crime. We do not attack individuals. We don't wreak our vengeance upon any individual opposed to our faith. We have no fight with individuals. We are capable of teaching those who hate us (applause). We do not hate them; we know better; we would hand them a cup of water, if they needed it (applause). There is not any room in our heart for hate, except for a system—a system in which it is possible for one man to achieve a tremendous fortune doing nothing, while millions upon millions suffer and struggle and agonize and die for the bare necessities of life (applause).

McKinley had been assassinated. I was booked to speak at Portsmouth. All of the ministers of Portsmouth met in a special session, and they passed a resolution that Debs, more than any other person, was responsible for the assassination of our beloved President (laughter). And it is due to what he was preaching that was he responsible for this crime. And so all of these pious gentry, the followers of the meek and lowly, as they believed, met and said I must not be permitted to enter the city. And they had the mayor to issue an order not permitting me to speak. I was all tired out. And they wanted me to call the meeting off. I went there soon after, however. Soon after I was booked to speak at Warren, where President McKinley's double cousin was postmaster. I went there and registered. I was

only registered when I was ordered to leave the hotel. I was exceedingly undesirable that day. I was served with notice that the hall would not be open, and that I would not be permitted to speak. I sent back word to the mayor, by the only Socialist who was permitted to remain in town—and he only remained because they did not know he was there—I sent word to the mayor that I would speak in Warren that night, according to the schedule, or I would leave Warren in a box (applause).

I went to the hall, and the Grand Army of the Republic had a special meeting, and in full uniform they all went to the hall and occupied the front seats, in order to pounce upon me and take good care of me if my speech did not suit them. I went to the hall and made my speech. I told them who was responsible for the assassination. I said: "As long as there is misery caused by robbery at the bottom, there will be assassination at the top" (applause). I showed them that it was their capitalist system that was responsible; that impoverished and brutalized the ancestors of the poor, witless boy who murdered the President. Yes, I made the speech that night. When I left there I was still very undesirable.

I returned some years thereafter. It seems that the whole population of Warren was out. I was received with open arms (applause). I was no longer a demagogue; I was no longer a fanatic; I was no longer an undesirable. I had become exceedingly honorable simply because the Socialists had increased in numbers and in power. Consequently, I had become something respectable—what a change, from poor respectability! If ever I become anything more respectable, I will be quite sure that I have outlived myself (laughter).

Oh, it is the minorities who have made the histories of this world! They who have had the courage to take their places at the front; they who have been true enough to themselves to speak the truth that is in them; they who have opposed the established order of things; who have espoused the cause of the suffering, struggling poor; who have upheld, without regard to personal consequences—who have upheld the cause of righteousness; they have made the history; they have paved the way to civilization. Oh, there are so many who remain upon the popular side. They lack the courage to join a despised minority; they lack the fiber that endures. They

are to be pitied, and not treated with contempt; they cannot help it. But, thank God, in every age and every nation there have been that few, and they have been sufficient; and they have lived; they have endured; and we, who are on earth today, are under obligation to them, because they suffered, they sacrificed, they went to jail; they had their bones broken upon the wheel; they were burned at the stake, and had their ashes scattered to the four winds by the hands of hate. We are under obligation to them, because of what they suffered for us; and the only way we can cancel that obligation is by doing or seeking to do in the interest of those who are to come after us (applause).

And this is the high purpose of every Socialist on the face of the earth. Everywhere they are animated by the same lofty principle; everywhere they have the same noble ideal; everywhere they are clasping hands across the boundary lines; everywhere they are calling one another comrades, the blessed word that springs from the heart and soul of unity; that bursts into blossom upon the lips; aye, the word "comrade"—getting in closer touch all along the battle line; and they are waging the war—the war of the working class of the world against the ruling class, the exploiting class of the world. They make mistakes; they profit with them all; we encounter defeats; they grow—they grow stronger through them all. They never take a backward step; the heart of the international Socialist never beats retreat; they are pushing forward (applause). They are pressing forward, here, there, everywhere, in all of the zones that girdle this globe; everywhere these awakening workers, these class-conscious proletarians, these horny-fisted children of honest toil, everywhere wiping out the boundary lines; everywhere facing the larger and nobler patriotism; everywhere proclaiming the glad tidings of the coming emancipation; everywhere having their hearts attuned to the most sacred cause that ever challenged men and women to action in all the history of the world. Everywhere moving toward Democracy; everywhere marching toward the sunrise, their faces all aglow with the light of the coming day. These are the Socialists; these are the most zealous, the most enthusiastic crusaders the world has ever known (applause). They are making history that will light the horizon in the coming generations; they are bound upon emancipating the human

race. They have been reviled; they have been persecuted; but they have been sufficient to themselves, pressing forward toward the height—aye, their triumph is now already begun.

Do you wish to hasten it? Join the Socialist party. Don't wait for the morrow. Come now (applause). Enroll your name; take your place where you belong. You cannot do your duty by proxy. You have got to do something yourself, and do it squarely, and look yourself in the face while you are doing it; and you will have no occasion to blush; you will know what it is to be a man or woman. You will lose nothing; you gain everything (applause). Not only do you not lose anything, but you are very apt to find something, and that something will be yourself. And you need to find yourself (applause). You need to know that you are fit for something better than slavery and cannon fodder (applause). You need to know that you were not created to work and to produce to impoverish yourself and to enrich an idle exploiter. You need to know that you have a soul to develop, a manhood to sustain. You need to know that it is your duty to rise above the animal plane. You need to know that it is for you to know something about literature, and about science, and about art. You need to know that you are on the edge of a great new world. You need to get in touch with your comrades; you need to become conscious of your interest and your power as a class. You need to know that you belong to the great majority. You need to know as long as you are ignorant, as long as you are indifferent, as long as you are content, as long as you are unorganized, you will remain exactly where you are (applause). You will be exploited; you will have to beg for a job; you will get just enough to keep you in working order; and you will be looked down upon with contempt by the very parasite that lives out of your sweat and unpaid labor. If you would be respected, you have got to begin by respecting yourself (applause). Stand up, and look yourself in the face, and see a man for the first time. See how he looks, please.

Do not be in the predicament of that poor fellow that after he had heard a Socialist speak, he concluded that he ought to be a Socialist. The argument was unanswerable. He said: "Yes. All he said is true. I ought to join the party." But, after while he concluded

that he might possibly anger the will of his old boss, and lose his job. He said: "I guess I can't afford to take the chance." That night he slept alone. He was in conflict with his conscience, as he went to bed; and he dreamed a very terrible dream. Men always do when they are untrue to themselves. Socialists always go to bed with a clear conscience. He goes to sleep with his manhood, and he wakes and goes forth in the morning with his self-respect; and he looks the whole face in the world (applause and laughter), without a tremor, without a flicker. But this poor fellow, who lacked the courage to do what his reason and his conscience commanded he should do—this poor fellow had a terrible dream. He awoke, and at midnight he bounded from his bed in a state of terror, for he said: "My God, there is nobody in this room." (Laughter.) And he was absolutely right (laughter and applause). No one! He was terror-stricken. How would you like to sleep in a room with nobody in it? (Laughter.) It is an awful thing to be nobody. That is a state of mind to get out of—the sooner the better.

There is a great deal of hope for Baker, Ruthenberg and Wagenknecht, but for the fellow that is nobody, there is no pardoning power. He is "in" for life. Anybody can be nobody, but it takes a man to be somebody.

To turn your back on that corrupt Republican party, and that still more corrupt Democratic party—the gold-dust boys of the ruling class (laughter), yes, it counts for something. To step out of those great, popular, subsidized capitalist parties, and get into a minority party that stands for a principle, and fights for a cause (applause). Make that change; it will be the most important change you have ever made in your life; and you will thank me to your dying day—or living day—a Socialist never dies—you will thank me for having made the suggestion. It was a day of days for me. I remember it so well. I passed from darkness to light. It came like a flash, just as great, seething, throbbing Russia, in a flash, was transformed from the land of supreme darkness to a land of living light. There is something splendid in the prompting of the heart to be true to yourself, especially so in a crisis.

You are in the crucible today, Mr. Socialist. You are going to be tried, to what extent no one knows. If you are weak-fibred, that weakness will be sought out, and

located. And if, through that weakness, you ar
quered, you may be driven out of the Socialist
ment. We will have to bid good-bye to you. Y
not the stuff of which Revolutionists are made. W
sorry for you (applause), unless you happen to
intellectual. The intellectuals, a good many of
are already gone. No—no loss on our side, nor an
on theirs.

But, when discussing the intellectual phase o
question, I am always amused by it. It is the sam
standard under which the rank and file are judge
fail to depend upon leaders of men—of others, be
they haven't got a thing of their own. What woul
come of the men that are sheep unless they had
herds to lead them out of the wilderness into the
flowing with milk and honey? Oh, yes, "Ye ar
sheep." In other words, "Ye are my mutton." (L
ter.) And, if you had no intellectuals you could
no movement. They rule through their intellectua
the capitalistic party. They have their so-called lea
In the Republican and Democratic party you ar
called upon to think. That is wholly unnecessary.
leaders do the thinking. You simply do the voting.
ride in the carriages, and you tramp in the mud, b
ing up the rear, showing themselves cowards.
tend to the rest of the intellectuals in the capitalist p
The capitalist system affects to have great regard
intellect. They give themselves credit for having
perior brains. We used to tell them sometime ago
the time would come when the working class would
They said: "Never in the world will they rule. I
quires brains to rule." Implying that the workers
none.

We used to say that the people ought to own the
roads and operate them for the benefit of the pe
We advocated that twenty years ago. They said: "
have got to have brains to run the trains." And
other day McAdoo fired all the brains (laughter).
haven't all the trains been coming and going exactl
time? Have you noticed any change since the br
are gone? It is a brainless system now. It is oper
by hand (laughter). But a good deal more efficie
than it was operated by brains before (laughter).
this determines infallibly the quality of capitalist br
It is the kind of brains you can get at a very rea

able figure at the market houses. There is not very much question about it. They have always given themselves credit for having superior brains. Aye, they have the brains of the fox; they have the brains of the wolf; they have had the shrewdness, the cunning of the coyote; but as for brains—brains, as representing intelligence and intellectual capacity, they are the most woefully ignorant people on the face of the earth. Give me a hundred capitalists, just as you find them here in Ohio—give me my pick of this plutocracy, and let me ask them a dozen simple questions about the history of their country, and I will show you that they are as ignorant as unlettered schoolboys (applause). They know nothing of history; they are ignorant of sociology; they are strangers to science; but they know how to gouge; how to rob, and do it legally. And they always do it legally, for the reason that the class which has the power to rob, upon a large scale, has the power to control the government and legalize their robbery. I haven't time to discuss this great question as extensively as I would like.

They are talking about your patriotic duty. Among other things, they are advising you to cultivate war gardens—cultivate a war garden. While they are doing this, a Government war report shows that practically fifty-two per cent. of the arable tillable soil is held out of use by the profiteers, by the land manipulators—held out of use. They, themselves, do not cultivate it. They could not if they would. They don't allow others to cultivate it; they keep it idle to enrich themselves; to pocket the hundreds of dollars of unearned increment. Who is it that makes their land valuable while it is fenced in and kept out of use? It is the people. Who pockets this tremendous value? The landlords. The landlords. Who is the patriot? And while we are upon the subject, I want you to think upon the term "land-lord." Landlord. Lord of the land ? This lord of the land is a great patriot. This lord, who professionally owns the earth, tells you that he is fighting to make the world safe for Democracy—he, who shuts all humanity out—and he who profiteers at the expense of the people who have been slain by multiplied thousands, under the pretense of being the great patriot he is—he, who is your arch-enemy; he it is that you need to wipe from power (applause). It is he, it is he that is a menace to your

loyalty and your liberty far more than the P
junker on the other side of the Atlantic ocea
plause). Fifty-two per cent., according to the
figures. They tell you that there is a shortage
and that you need to produce. We have got
wheat that we can export more wheat for the
who fight on the other side, while half of your
soil is held out of use by the profiteers. What
think of that?

Again, they tell you there is a coal famine now
State of Ohio. The State of Indiana, where I
largely underlaid with coal. There is an inexha
supply of it. The coal is beneath our feet. It is
touch—all that we can possibly use. And here a
miners; they are ready to enter the mines. There
machinery ready to be put into operation to in
the output to any desired capacity. And yet, only
weeks ago a national officer of the United Mine W
issued and published an appeal to the Labor Depa
of the United States Government to the effect t
the six hundred thousand coal miners in the
States at this time, when they tell us of a coal f
—the six hundred thousand coal miners in this c
are not permitted to work more than half time.
been around over Indiana. I have been in the coal
I have seen the miners idle. In the meantime, se
of coal. They tell you that you ought to buy you
right away. You may freeze to death next winter
do not; and they charge you three prices for coal
yes, I think you ought to do this if you vote the Re
can or Democratic ticket (applause). Now we hav
vate ownership of the coal mines. And this is the
of private ownership of this great social utility.
coal mines are privately owned, and the operators
a scarcity of coal. Why? So they can boost the
indefinitely. If there was an abundance of coal,
would be too much coal. They make more mone
of the scarcity of coal. So there is collusion betwe
operators and the railroads. The operators say
are no cars, and the railroad men say no coal.
between them they simply humbug, delude, defrau
people.

There is the coal. Here are the miners.
coal has accumulated; the miners are idle and hu

We Socialists say: Take possession of the mines in the name of the people (applause). Set the miners at work; give every miner that works all the coal he produces. In this system the miner goes down in a pit three hundred feet. He goes to work and mines a ton of coal. He doesn't own one solitary bit of it. That ton of coal belongs to some plutocrat who lives in New York, Vienna or Paris. There is where the owners are before the war is declared. Then when they get together on their book accounts, he gets a share as if he did the work. The owner who lives in Europe, New York or Patagonia—it doesn't make any difference where he is. He doesn't have to keep at the work. He owns the tools, and he might as well own the miner. That is what you do for them as long as you vote the Republican ticket or the Democratic ticket. You vote to have these miners without a job—corporation vassals and also paupers. But I'll tell you we Socialists say: Take possession of the mines; call the miners to the coal mines. Let the miners mine the coal—every ounce. He himself is entitled to the full value of his toil. Then he can build himself a comfortable home; live in it; enjoy it; he can provide himself and his wife and children with clothes—good clothes—not shoddy; wholesome food in abundance, and the people will get coal at just what it costs to mine it.

Oh, that is Socialism as far as it goes. But you are not in favor of that program. It is too visionary. So continue to pay three prices for coal, and get your coal when winter comes, because you prefer to vote the capitalist ticket. You are still in the capitalist state of mind. It is a good deal like the Executive Lincoln said: "If you want that thing, that is what you will get to your heart's content." You will waken up; you will be raised up. A change is needed. Yes, yes. Not of party, but change of system: a change from despotism to Democracy, wide as the world (applause). A change from slavery to freedom! A change from brutehood to brotherhood; and to accomplish this you have got to organize; and you have got to organize industrially. Not along the zig-zag, craft lines laid down by Sam Gompers, who, through all of his career, has been on the side of the master class. You never hear the capitalist press speak of him except in praise and adulation. He has become a great patriot. Oh, yes. Gompers, who was never on the unpopular side

of any question or of any proposition; always co
tive, satisfied to leave the labor problem to be se
the banquet board with Elihu Root, Andy Carneg
the rest of the plutocrats. When they drank w
gether and smoked scab cigars, then the labor q
was settled (laughter).

Oh, yes, while they are praising Gompers, t
the I. W. W. You find very few men who have th
age to say a word in behalf of the I. W. W. (app
I have (applause). Let me say here that I hav
great respect for the I. W. W. More than I ha
their infamous detractors (applause).

Listen. There is a pamphlet just been issued
"The Truth About the I. W. W." It has been
after long investigation by five men, all of who
known to the Socialists; all of whom are men of u
tioned standing in the capitalist world. At the h
this is Prof. John Graham Brooks of Harvard U
sity; John Fitch of the Survey, of Pittsburgh, an
Bruere, the Government investigator. Five of
conducted an impartial examination of the
W. To use their own words, they have fol
its trail; they have examined into its doing
ginning at Bisbee, where the patriots, the
business men, the arch-criminals, deported
hundred men, working men, charging them with
I. W. W., when they were nothing of the kind. It i
necessary to label a man "I. W. W." to have
lynched, just as they lynched Praeger, an absolute
nocent man—innocent as we are. Just simply starte
rumor because he bore a German name. He was
cialist, but he had never uttered one disloyal w
only the rumor was started he was disloyal, whic
made up. Just think of the crime for which the
capitalist party is responsible. But, when the war
says war, you may rest assured that every pulpit i
land will say war. And when Wall street says
they will all say peace, because they are simply t
struments of Wall street. The pulpits in every age
been on the side of every ruling, exploiting clas
the ruling class, and not on the side of the people.
is why the I. W. W. is infamous.

Look into this pamphlet. Don't take the word
Wall street press for that. Get this pamphlet of

about the I. W. W. by five men who are incorruptible, uncontaminated—five men who dared to want to know the truth and tell the truth to the American people, with the truth in this pamplet. They say that the I. W. W. in all of its career never committed as much violence against the ruling class as the ruling class has committed against the I. W. W. (applause).

You are not reading any reports about the trial at Chicago, are you? They used to publish extensive reports when the trials first began, and they told the people about what they proposed to prove about that gigantic conspiracy against the Government. And the trial has gone on now until they have exhausted all their testimony, and they have not proven violence in a single, solitary instance. Not one. They are utterly lacking in testimony; and yet, one hundred and twelve men are now on trial, after lying in jail for months and months, without the shadow of a crime on them—simply charged with belonging to the I. W. W. This is enough to take a man and send his soul to hell for. Just speak about the I. W. W. That is all; with no reason for it, they object to the I. W. W. The I. W. W. are fighting the fight of the bottom dog (applause). And for the reason that Gompers is loved and glorified by Wall street, Bill Haywood is despised and denounced by the same gang.

What you need is to organize, not along craft lines, but along revolutionary industrial lines (applause). You will never vote in the Socialist republic. You are needed to organize it; and you have got to organize it in the industries—unite in the industries. The industrial union is the forerunner of industrial Democracy. In the shop is where the industrial Democracy has its beginning. Organize according to the industries, and minimize all the Gompers. Get together. United, very often your power becomes invincible. Organize to get up to your fullest capacity. Organize. Act together. And when you organize industrially, you will soon learn that you can manage industry as well as operate industry. You can soon find that you don't need the idle for your masters. They are simply parasites. They don't give you work. You give them jobs taking what you produce, and that is all. Their function is to take what you produce. You can dispose of them. You don't need them to depend upon for your jobs. You ought to own

your own tools; you ought to control your ow
ought to be industrial free men instead of
slaves. Organize industrially. Make the o
complete. Then unite in the Socialist party.
organization economically complete. Vote as
get into the party; stand with the party all
in the year. See that your party embraces t
class. It is the only working class party, the
expresses the interest, the hope, the aspirati
toilers of the world. Get into the party. Ge
low workers into the party, too. Yes, espe
year—this historic year; this year in which
will clash as they never clashed before. This
that calls for men and women who have the
have the courage, the manhood and the woman
into the party. Take your place in the ranks
inspire the weak and to strengthen the falteri
your share to speed the coming of that bri
better day for us all (applause). Then, whe
together and act together on the industrial
will develop the supreme power of the one clas
bring permanent peace to the world. We wil
courage. Industry will be organized. We wi
the public power. We will transfer the title
the railroads, the telegraph lines, the mills,
industries—we will transfer them to the peopl
take possession in the name of the people. We
industrial Democracy. We will have Socialis
racy; we will have political Democracy. We w
first free nation whose government belongs to t
Oh, this change will be universal; it will be pe
it looks towards the light; it paves the way t
pation.

And now for all of us to do our duty. The ca
ing in our ears. It is your duty to respond;
cannot falter without being convicted of treaso
selves. Do not worry, please; don't worry
charge of treason to your masters, but be
about the treason that involves yourselves (a
Be true to yourself, and you cannot be a trait
good cause on earth.

Yes, we are going to sweep into power in th
and in every other nation on earth. We are
destroy the capitalist institutions; we are goi

create them as legally free institutions. Before our very eyes the world is being destroyed. The world of capitalism is collapsing; the world of Socialism is rising.

It is your duty to help to build. We need builders of industry. Builders are necessary. We Socialists are the builders of the world that is to be. We are all agreed to do our part. We are inviting—aye, challenging you this afternoon, in the name of your own manhood, to join us. Help do your part. In due course of time the hour will strike, and this great cause—the greatest in history—will proclaim the emancipation of the working class and the brotherhood of all mankind. (Thunderous and prolonged applause.)

* * * * * *

2. Count 4 (42-55) charges that defendant did obstruct and attempt to obstruct the recruiting and enlistment service of the United States. The making of the speech, and other averments are the same as before, except that the ages of hearers particularized is 18 to 45.

3. Count 7 (82-95), reciting the same facts, and again alleging hearers between 21 and 30, charges that the defendant did "unlawfully, wilfully and feloniously utter and publish certain language intended to incite, provoke and encourage resistance to the United States, and to promote the cause of its enemy, to wit: The Imperial German Government."

Aside from the introduction of the Canton speech, most of the time of the trial was consumed in reading into the record the war proclamation issued by the Socialist Party in April, 1917, usually designated as the St. Louis Platform (218, Exhibit II); also the records of criminal prosecutions against Wagenknecht, Baker, Ruthenberg (226, Exhibits 9, 10, 11, 12 and 13), Rose Pastor Stokes (227, Exhibit 14), and Kate Richards O'Hare (228, Exhibit 15), and a speech made by Mr. Debs in Chicago on August 11, 1918 (220-223).

No witnesses were called for the defense. Mr. Debs made the only argument in his own behalf (236-248).

Counsel for Mr. Debs, proceeding upon this simple record, are conscious of an obligation to present the appeal to this court in entire harmony with the spirit and purpose of the defense in the trial court. The defendant comes before this court like any other person charged with crime, and his attorneys are under duty to this court to call attention to such manifest errors upon the trial as have thwarted the established requirements of a criminal proceeding. Yet in urging upon this court the several matters which we consider as highly prejudicial error against Mr. Debs in his trial, we hope in no way to give the least impression of altering his firm stand upon his public expressions as within his right of free speech under the Constitution.

Specification of Errors.

We shall urge errors committed by the trial court to the prejudice of the defendant, as follows:

1. Overruling the demurrer to the indictment. The indictment fails to state an offense for the several reasons that:

(a) It states only conclusions of law in the language of the statute and makes no connection between these averments and the speech of the defendant, leaving this connection entirely to conjecture and argumentative inference;

(b) It proceeds upon the erroneous assumption, in counts 3 and 7, that all citizens between the ages of 21 and 30 are part of the military forces of the United States; and, in count 4, that all citizens between the ages of 18 and 45 are part of the recruiting service;

(c) *It states no charge and sets forth no language, no matter how aided by inference or deduction, which could bring the speech of defendant within the purview of Congressional penal legislation under the powers granted to Congress in the Constitution.*

2. The trial court erred in admitting as testimony a partial court record of criminal proceedings against Wagenknecht, Baker and Ruthenberg (226).

3. The trial court erred in admitting court records in the criminal prosecution against Rose Pastor Stokes.

4. The court erred, likewise, in admitting the records in the case against Kate Richards O'Hare.

5. Admission of portions out of two interviews, between witness Clyde Miller and the defendant, referring to the St. Louis Platform (166-175; 218-220).

6. Admission of the St. Louis Platform as testimony, erroneous because in no way connected with the making of the speech upon which the charges are founded, and immaterial and improper upon the issue of the criminal intent involved in the making of the Canton speech, which does not directly or inferentially adopt or refer to this document, or in any way bring its text to the consciousness of the hearers.

7. The court erred in admitting as evidence part of a speech said to have been made in Chicago, August 11, 1918, irrelevant and improper to prove the intent involved in the making of the speech at Canton on June 16th.

8. Error in refusing to direct a verdict of acquittal on each and every count of the indictment, because there was no evidence of any solicitation or urging of unlawful conduct on the part of others by the defendant, and because on no other basis could defendant's utterances

come within the constitutional power of Congress to prohibit or punish expressions of opinions and sentiments.

9. Error in the instructions of the trial judge as to those persons who make up *the military and naval forces* and *the recruiting service* of the United States (268, 270).

10. Error in the instructions as to the range of public discussion immune from Congressional interference under the First Amendment of the Constitution (278-279).

11. Error in the instructions (278) in declaring constitutional the clause of the Espionage Act upon which count 7 is based, namely, "whoever, when the United States is at war * * * shall wilfully utter, print, write, or publish any language intended to incite, provoke or encourage resistance to the United States, or to promote the cause of its enemies * * * shall be punished, etc." Which said clause is obnoxious to the First Amendment, prohibiting legislation abridging the freedom of speech, or of the press; obnoxious to section 3 of article III, limiting the definition of treason against the United States; obnoxious also to the provision in the Sixth Amendment (relating to the due process of law guaranteed to one charged with crime by the Fifth Amendment) which requires that accused shall be informed of the nature and cause of the accusation, and which requirement cannot be fulfilled in application to a penal provision of such extreme indefiniteness as the one in question.

Points.

The argument on the errors above set forth will be made under five headings, as follows:

I. The indictment fails to charge a crime.

II. Admission of court records in other criminal proceedings.

III. Admission of St. Louis Platform.

IV. Definition of *military forces* and *recruiting service.*

V. The acts charged against defendant are protected under the First Amendment of the Constitution.

I.

THE INDICTMENT FAILS TO CHARGE A CRIME.

The primary argument under this heading is carried over to the general discussion of the right of free speech under a subsequent heading of the brief. At this point we desire merely to call attention to the fictitious character of the pleading as pleading.

We have already summarized the three counts of the indictment with which we are here concerned. In each case there is the array of averments in the language of the statute and reference to the speech in its entirety. There is only a statement of crime by mere formulas of words, not a definition by facts. Whatever connection may exist between the formal averments and the speech is matter of inference or speculation. There are no conclusions of fact, based upon the speech or other matter. There is absolutely nothing in the indictment upon which a rule of the case could be founded, short of the proposition that the general array of words set forth,

addressed to a stated audience at a stated time and place constitutes a violation of the Espionage Act. The time is specified as a time when the United States was at war and the audience as containing young men of certain ages. The relation of the speech to these items, or to the general (statutory) averments, is ignored. This pleading we challenge under the general rule, as stated by Justice Story in *United States* v. *Davis*, 5 Mason 356, that "in criminal cases courts of law are not at liberty to make intendments and inferences to support indictments, in the same manner as they may do to support civil actions."

The case of *United States* v. *Bopp et al.*, 230 Fed. 723, is decisive of this point. The *Bopp* case, disposed of on demurrer, was a charge of conspiracy to organize a military enterprise against a foreign nation, and the decision was that acts were not set forth which made specific the crime alleged. Even though a charge was made in the precise words of the statute itself, this was not a sufficient description of a charge to organize a "military enterprise." The definition of such an enterprise, in concrete terms, must appear as the effect of the indictment, not as its conclusions of law, nor yet as its bare repetition of the statutory definition of the crime. It is only when the language of the statute itself contains the definition *in terms of acts* that it is alone sufficient. Adding the speech made at Canton to the abstract averments in the three counts here in question does not define the crime, unless it be further alleged in what respect the speech and other items combine toward a criminal end.

The crime must be fully described, not by intendment or implication, not inferentially or by way of recital, but directly and completely, so that the criminal purpose is plainly revealed. It is not a general intent which will

suffice, but the specific intent to achieve the crime set out. There must be a direct connection made clear between the intent to violate the statute and acts consummated or in process, not by legal conclusions of the pleader, but by the logical resultant of the sum total of the material of the indictment. The charge must rest in the facts and circumstances pleaded directly and positively, and cannot be made to depend upon inference and argument, as in the indictment which we challenge. *Pettibone* v. *United States*, 148 U. S. 197; *United States* v. *Hess*, 124 U. S. 483; Bishop's New Crim. Prac., Vol. I, Sec. 325; also, Vol. II, Sec. 779.

To state this another way, and taking the indictment in its original form for the sake of illustration, are there really ten different applications of the speech, or merely the lining up of charges in ten phases of the statute alongside the speech? Now this would seem to be proper pleading of the speech as an offense *per se, of the language as the criminal act when accompanying an allegation of publication.* But the theory of the speech *as relating itself to acts of others* is not revealed by setting out the text of the speech together with conclusions in statutory language of the kind here in question.

The rule of strict application of penal statutes is applicable to the situation here presented. Especially is this pertinent to a new offense (*Field* v. *United States*, 137 Fed. 6), and to a statute involving a change in our traditional policy in relation to public discussions. *Masses Pub. Co.* v. *Patten*, 244 Fed. 535.

We cite further the ruling and opinion of Judge Amidon in *United States* v. *Schutte*, 252 Fed. 213, wherein also appears the language of the Supreme Court of Minnesota in *State* v. *Spartz*, 167 N. W. 547. We go further than Judge Amidon, however, since the language of his

opinion would seem to make it sufficient if the plead sets out the words *so that the court can pass upon the* Presumably that is the process by which the trial jud eliminated several of the counts of the indictment he in question. Suppose then we proceed on this bas The proposition is that the trial judge sustains the oth counts upon the theory that by reasonable inference t language uttered by the defendant might be held appr priate to the wilful purpose alleged. On the other han what we contend is that *the connection between the la guage and the purpose ought to form part of the indic ment,* so that the defendant may be enlightened, and n alone that the judge may have the materials for his ru ing upon the indictment.

In short, there is in this pleading a speculative el ment, an invitation for inferences to go along with th abstract averments. We are asked to search the speec ten different times for possible applications to ten di ferent offenses, the pleader standing aside in favor c conclusions of fact to be made by the court, and th court, and then the jury, proceeding to these conclusion in privacy of consciousness never revealed to the defend ant, except in form of ruling and verdict. The elemer tary principles of pleading in defamation, where word carry the offense, would be violated by giving the word without a theory of their injury. Assuredly the require ments of pleading a felony cannot be satisfied by leav ing a gap for guesswork, wherein the trial judge and th jury may arrive at the same point by processes of rea soning extremely divergent, and the rule of the case, a tested by the indictment, may go to nothing except s speech as an entity—when it is not the speech as lan guage, but as motivation to action, which constitutes th charge.

II.

ADMISSION OF COURT RECORDS IN OTHER CRIMINAL PROCEEDINGS.

In the speech upon which the several charges proceed, Mr. Debs referred to Wagenknecht, Ruthenberg and Baker, who were confined in the workhouse at Canton. We repeat the references to these men made by Mr. Debs:

> "I have just returned from a visit over yonder (pointing to workhouse) where three of our most loyal comrades are paying the penalty for devotion to the cause of the working class. They have come to realize as many of us have, that it is extremely dangerous to exercise the constitutional right of free speech in a country fighting to make democracy safe in the world. * * * And they may put those boys in jail and some of the rest of us in jail, but they cannot put the Socialist movement in jail. Those prison bars separate their bodies from ours, but their souls are here this afternoon. They are simply paying the penalty that all men have paid in all of the ages of history for standing erect, and for seeking to pave the way to better conditions for mankind. If it had not been for the men and women, who, in the past, have had the moral courage to go to jail, we would still be in the jungles. * * *
>
> Those boys over yonder—those comrades of ours—and how I love them—aye, they are my younger brothers; their very names throb in my heart, and thrill in my veins, and surge in my soul. I am proud of them. They are there for us, and we are here for them. Their lips, though temporarily mute, are more eloquent than ever before; and their voice, though silent, is heard around the world.
>
> There is a great deal of hope for Baker, Ruthenberg and Wagenknecht, but for the fellow that is nobody, there is no pardoning power. He is 'in' for life. Anybody can be nobody, but it takes a man to be somebody. * * *"

On the basis of this reference by Mr. Debs to three persons, a partial record of criminal proce against them (in this same court) was introduced objection. The clerk of the court identified the re and the prosecuting attorney read them to the jury. indictment against these persons was for a violati an Act of Congress approved May 18, 1917, requ registration for military service of persons desig as subject to draft, in that they aided and abetted s one in his refusal to register.

There is not a word in the speech of Mr. Debs w suggests approval, or even knowledge on his own of the criminal offense for which these three men convicted. There is not a word by which he brings knowledge to his hearers, or in any way holds up acts charged against these men as an example or st ard of conduct for others.

The defendant spoke also of Rose Pastor Stokes. said:

> "Another brief history I want to review is tha Rose Pastor Stokes, another inspiring comrade. had her millions of dollars. Her devotion to cause is without all consideration of a financial economic view. She went out to render service the cause and they sent her to the penitentiary ten years. What has she said? Nothing more t I have said here this afternoon. I want to say t if Rose Pastor Stokes is guilty, so am I. If should be sentenced to the penitentiary for ten ye so ought I. What did she say? She said tha Government could not serve both the profiteers a the employes of the profiteers. Roosevelt has s a thousand times more in his paper, the Kansas C Star. * * *
>
> Rose Pastor Stokes never said a word she did have a right to utter, but her message opened eyes of the people. That must be suppressed. T voice must be silenced. Her trial in a capita

court was very farcical. What chance had she in a corporation court with a put-up jury and corporation tool on the bench?''

The trial judge, over objection, permitted the Government to introduce the indictment, verdict and sentence against Rose Pastor Stokes, who was tried May, 1918, in the District Court for the Western District of Missouri, on charges under the Espionage Act. Since the printed record does not set out this indictment, we refer here to the quotation from this indictment as used by the District Attorney in his argument (261):

> ''Here is what Rose Pastor Stokes said—you heard the record—for which she got ten years: 'A headline in this evening's issue of the Star reads: ''Mrs. Stokes for Government and Against War at Same Time.'' I am not for the Government.' She says that she is not for the United States. Eugene V. Debs says to you, 'I am with Mrs. Stokes.' That means 'I am not for the United States.' Doesn't it?
>
> Gentlemen, there is a great war on. This man is charged with the crime of violating the Espionage Act. It is competent to show what he intended to do, what he had in mind, what his purpose was, when he made his speech down there. 'I am not for the Government. I am reported as having said ''I believe the Government of the United States should have the unqualified support of every citizen in its war aims.'' You and I believe that, don't we? A citizen of this country that don't believe in that ought to be driven out of it, or not be permitted to run around loose. I made no such statement, and I believe no such thing. No government which is for the profiteers can also be for the people, and I am for the people, while the government is for the profiteers.' ''

And of Kate Richards O'Hare he said:

> ''Why, the other day they sent Kate Richards O'Hare to the penitentiary for ten years. Just think of sentencing a woman to the penitentiary for talking. The United States, under the rule of plu-

tocracy, is the only country that would
woman to the penitentiary for exercising
stitutional right of free speech. If this be
let them make the most of it. Let me revie
the history in connection with this case.
known Kate Richards O'Hare intimately
years. I know her record by heart. Pers
know her as if she were my own sister.
know her know she is a woman of absolut
rity. And they know that she is a woman
peachable loyalty to the socialist movement.
she went out into Dakota and made her s
followed by plain-clothes men in the servic
Government, intent upon encompassing he
and her prosecution and her conviction—w
was out there, it was with the knowledge that
or later they would accomplish their purpos
made a certain speech, and that speech wa
erately misrepresented for the purpose of s
her conviction. The only testimony against
that of a hired witness. And when 30 farme
and women, who were in the audience she ad
—made the speech to, when they went to Bi
to testify in her favor, to swear that she ha
used the language she was charged with
used, the judge refused to allow them to go
stand."

Similarly, over objection, the trial court permit
Government to introduce the indictment against
Richards O'Hare, the verdict of guilty returned
jury and the judgment and sentence of the court th
Mrs. O'Hare was tried under the Espionage A
cember, 1917, in the District Court for the Dist
North Dakota. For the substance of this indictm
refer again to the argument of the District At
(262):

"Kate Richard O'Hare, in a public meetin
that 'any person who enlisted in the army
United States for service in France would b
for fertilizer, and that is all that he was goo
and that the women of the United States were

ing more nor less than brood sows to raise children to get into the army and be made into fertilizer.' The record shows that she was found guilty by 12 men, and is under sentence for that offense; so we must assume that it is true. And Debs wants to take his place alongside of her. How much favor ought a man of that kind have in a court of justice, or in any court? If it was any other country in the would he would be facing a firing squad, after a trial on the head of a drum, and not after days of pain and effort to give him a fair, just and equitable trial."

It will be observed from the foregoing that nothing in the address of Mr. Debs, or in any other matter disclosed in the evidence, indicated that he or anyone who heard him speak on June 16th, had knowledge of the charges contained in these several pleadings against Wagenknecht, Ruthenberg, Baker, Kate Richards O'Hare, or Rose Pastor Stokes. That is, there was no showing of knowledge as to these charges, except as carried in the words of the Canton speech standing by itself. There was no basis whatever for an inference that the speaker intended to approve or indorse the offenses with which these persons were charged; nor that he was holding up these offenses as a standard of conduct for others (as was discussed in *Masses Publishing Co.* v. *Patten*, 244 Fed. 535; 246 Fed. 24). In fact, the defendant, by his own statement of the facts, as he understood them, shows conclusively that he had no knowledge of the specific criminal offenses of which these persons were found guilty.

The prejudicial character of this evidence is manifest when it is considered that there was no possibility of meeting it except by evidence relating to these charges against other persons. The introduction of these records raised a collateral issue which there was no way of meeting, and the effect was to impress the jury that

the defendant was admitting against himself t
charged in these indictments. There was no w
possibility in this trial to review these other c
there was no warrant or relevancy in permi
jury to pass upon these records for the pu
determining the intent of Mr. Debs in present
names to his hearers at Canton.

A striking tangent as to two of these records
the cases were pending on appeal, namely, the
Kate Richards O'Hare and Rose Pastor Stok
true the writ of error only suspends judgme
the reversal of either of these cases, assuming
that Mr. Debs referred to the charges as such
the individuals on the basis of long-cherished
regard—the reversal might establish the corre
a legal inference of innocence, while this actio
reviewing court would be unavailing to the de
who had made such inference contrary to the in
and conviction.

In an indirect way, there was an attempt here
by other proceedings other offenses of the de
than that with which he was charged. There
effect of making him a party to the charges a
established against five other persons, and of
him in Fargo, Kansas City and Cleveland un
onus of proved criminality.

To make more emphatic the vice of admitti
testimony on the issue of intent, we call attentio
rules as to the admissibility of evidence of othe
committed by the same defendant. The gener
against the admissibility of such evidence is clai
set forth in an annotation in 62 L. R. A. 193, to t
ing case of *People* v. *Molineaux*, 168 N. Y. 264. F
abundance of authorities under this heading we c

ticularly *State* v. *O'Donnell,* 36 Or. 222; *Davis* v. *State,* 54 Neb. 177; *People* v. *White,* 14 Wend. 112; *People* v. *Flanigan,* 59 N. Y. Supp. 101. The case of *Lightfoot* v. *People,* 16 Mich. 507, is specially appropriate; a witness testified that the defendant said he was the man who had broken into the house on a previous occasion, and the witness was then permitted to go on to state the fact of the former breaking. This was held reversible error. The court said:

> "What defendant said at the time of the burglary for which he was being tried, in reference to the former breaking, was admissible, but evidence of the fact of that breaking was not."

One of the recognized exceptions to the general rule of exclusion of evidence of other crimes is where the evidence is necessary to prove intent, or guilty knowledge. There are two views as to this exception, one that it is a rule of necessity, creating an exception only where the testimony as to the immediate transaction carries no proof of intent, the other view, that proof of intent by other crimes may be used cumulatively. But it is very clear from the character of the cases in which this exception is given application, and from the rationality of the general rule itself as applied to the circumstances with which we are dealing, that the rule of exception to prove intent can have no application here. It is in cases of fraud, forgery, counterfeiting, embezzlement, or receiving stolen property that this use of evidence of other crimes is applied, because it is in such cases particularly that the same act may be guilty or innocent depending only on the design of the doer. But when we deal with a charge of crime founded upon the use of words to influence the conduct of others, the intent must relate itself definitely to these words as instruments of action, not with the secret purposes locked within

the breast of the defendant and to be divulged only by exhibiting his prior conduct; or the sequence of his conduct, as by repetition which refutes mistake or accident. Either the words used at Canton measure up to the charges based upon them, or they do not. Other indictments cannot elucidate an intent in the use of these words which the words themselves do not carry.

It would seem obvious that the rule of exclusion against evidence of other crimes by a defendant would much more strictly apply to a use of indictments and sentences against third persons, to whom defendant has no relation other than the mention of their names in his speech, with such commendation as he gave them on the basis of their devotion to Socialism, as he knew it.

For a statement of the reason of this rule of exclusion which we here invoke, we cite the following language from the decision of this court in *Boyd* v. *United States*, 142 U. S. 450, 458:

> (As to other robberies preceding a murder)—"They were collateral to the issue to be tried. No notice was given by the indictment of the purpose of the government to introduce proof of them. They afforded no legal presumption or inference as to the particular crime charged. Those robberies may have been committed by the defendants in March, and yet they may have been innocent of the murder of Dansby in April. Proof of them only tended to prejudice the defendant with the jurors, to draw their minds away from the real issue, and to produce the impression that they were wretches whose lives were of no value to the community, and who were not entitled to the full benefit of the rules prescribed by law for the trial of human beings charged with crime involving the punishment of death. * * * However depraved in character, and however full of crime their past lives may have been, the defendants were entitled to be tried upon competent evidence, and only for the offense charged."

We cite further the case of *Miller* v. *State* (Okla.) 163 Pac. 131, in which the court adopts this language from Underhill on Criminal Evidence (Sec. 88):

> "Some connection between the crimes must be shown to have existed in fact, and in the mind of the actor, uniting them for the accomplishment of a common purpose, before such evidence can be received. This connection must clearly appear from the evidence. Whether any connection exists is a judicial question. If the court does not clearly perceive it, the accused should be given the benefit of the doubt, and the evidence rejected. The mind of the jurors must not be poisoned and prejudiced by receiving evidence of this irrelevant and dangerous description."

In *Commonwealth* v. *Harmon,* 2 Gray (68 Mass.) 289 the court deals with evidence of other publications in a criminal prosecution for libelous publications:

> "But in relation to this species of evidence, the prosecutor must be confined according to the recognized practice and course of judicial decisions in this commonwealth, to the proof of libelous and defamatory publications and statements of the same kind as those of which the defendant is accused in the particular proceeding then pending against him."

We call attention also to the rule of construction of language in defamation cases which is specially appropriate here, that "where the charge is conditional in its form, the actionable quality of the imputation depends upon the fact assumed in the conditional clause" (25 Cyc. 361). The praise which Mr. Debs rendered to others convicted of crime was conditioned by his own statement of what he knew and felt about these persons, as has been herein quoted, not upon the averments of an indictment in no way brought to the consciousness of other minds by Mr. Debs, and plainly enough not even known to himself. Many of the noblest persons

who ever lived were convicted of the most serious felonies, yet praise of their nobility of character and purposes, or of their steadfastness to the truth as they saw it, would not be read as endorsement of the criminality charged against them. The judicial mind might recoil at the suggestion of high praise of murderers, yet the popular mind accepts as noble heroism the slaying of tyrants, an ever-recurring episode of progress toward liberty—and this without a changed conception of the crime of murder in its unheroic aspects of normal experience.

We add finally, as to the argument under this heading, that the argument under the next heading is largely applicable here as well.

III.

ADMISSION OF ST. LOUIS PLATFORM.

We urge as prejudicial error the admission as testimony of a document (Exhibit 2) purporting to be a members' referendum ballot of the Socialist Party. This was said to contain the "majority report" and "minority report" of a National Convention of that party held at St. Louis, April, 1917. As in the trial, this document will be referred to as the St. Louis Platform.

The argument under this heading applies also to the testimony of Joseph Trindel, who recited from memory two or three sentences purporting to be a verbatim record of what Mr. Debs said in a speech at Chicago, August 11, 1918, nearly two months after the Canton meeting (221). This Chicago speech, the complete record of which was not produced at the trial, was delivered at a National Conference of State Secretaries of the Socialist

Party, the witness stating that not over 20 were present (221). From the sentences quoted by the witness it appears that Mr. Debs characterized this war as a capitalist war, and that he hoped "there is no one present today who will want to change the party's former attitude toward the war." The witness, on cross-examination, added that Mr. Debs did not say what was the party's "former attitude" toward the war (222).

The St. Louis Platform was not mentioned in the Canton speech. There was no reference in that speech—the entire basis of all the charges in the indictment—which by any implication might be understood as a comment on that document, or on any part of its text. The testimony of Clyde Miller, a news writer for the Cleveland Plain-Dealer, was that he interviewed Mr. Debs an hour before the time of the meeting at Canton. The interview was brief, and was recollected as lasting between five and eight minutes (175). The witness asked Mr. Debs if the reports that he had repudiated the St. Louis Platform were true. Mr. Debs answered that he approved of that platform from the time of its adoption in spirit and substance; that he accepted its main ideas; but that "in the light of recent events" he favored a restatement (170). The witness pressed his inquiries as to what changes in that platform Mr. Debs would favor, and the answer was that a restatement at this time would take into account particularly the Russian developments (170).

There was no document used as the medium of this interview (172). There was simply the assumption that the interviewer and Mr. Debs understood each other in regard to what was the St. Louis Platform. In fact, in spite of a persistent attempt, the Government found it impossible to identify any writing as the St. Louis Plat-

form, in order to qualify it for an offer of testimony, by use of the witness Clyde Miller. This was done, finally, by calling Mr. C. E. Ruthenberg to the stand (216). He stated that he was a member of the Convention at St. Louis, and that from a cursory examination of Exhibit 2 he recognized the writing as the majority and minority reports of that Convention.

At this stage of the trial, the District Attorney read into the record the majority report of the St. Louis Convention as it appears in Exhibit 2 (218). It is to be noted that the writing which went to the jury contained also a minority report, not referred to in the testimony.

After the acceptance of the St. Louis Platform as evidence to show defendant's intent in making the Canton speech, witness Clyde Miller was recalled by the government (218) and related another interview with Mr. Debs in Cleveland on the day of his arrest (June 30th). In this interview it appears that the witness was primarily interested in the general career of Mr. Debs and there was only an incidental reference to the St. Louis Platform, whereupon Mr. Debs said again that he did not repudiate that platform "and if necessary, I will die for its principles" (218).

On the question of the admissibility of this document to prove defendant's "state of mind" in making his Canton speech, there was no testimony of affirmance of any version of the document by Mr. Debs in its entirety. There was no testimony of approval of its text in part, but there was testimony that Mr. Debs favored a restatement, without indication of how a restatement would affect the document as introduced. Yet what was permitted to go to the jury was the complete text of a document given publication about sixteen months before the time of the interview upon which its admissibility was predicated. No witness was produced who heard the

Canton speech and in any way connected it with the St. Louis Platform. This was done entirely as matter of argument by the District Attorney and his assistant, and in fact constituted the main theme of their addresses to the jury (Wertz argument, particularly 255-260).

Two of the charges upon which a verdict of guilty was returned were based upon the Espionage Act as it went into effect June 15, 1917; the third charge upon an amendment of Many 16, 1918. Or, more exactly, the charges against Mr. Debs were all under the amended form of the Espionage Act. The St. Louis Platform is a writing of April, 1917. It is a writing emanating from a convention of which Mr. Debs was not a member (216). He told the witness that he approved the principles of that writing. He repeated this in his address to the jury, adding that he voted for the "majority report" as a member of the Socialist Party (242).

It might be contended that Mr. Debs could have taken the stand and gone ahead with his interview with Clyde Miller; that he could have explained what he meant by his adherence to the St. Louis Platform; that he might have made complete and explained his Chicago speech as reported by Joseph Trindel. Right here is the test of the impropriety and unfairness of the admission of this St. Louis document, because it invites the alternative of a line by line exposition and commentary on an elaborate writing in which defendant had no part, and with which the testimony had connected him only to the extent of a broad statement that he approved its principles. A writing, to repeat, which had in no way been connected by testimony with the understanding of the Canton audience of the speech of June 16th.

The anomaly of this entire trial situation, considering now the array of the St. Louis Platform, the August

speech at Chicago, the court records of convictions of
defendants in three unrelated prosecutions, is that w
the audience at Canton, the effect upon whose minds
one speech is the gravamen of all the charges, could o
be influenced by the sentiments inherent in the expr
sions of Mr. Debs used in that speech, the jury was gi
the one speech in the detailed setting of all this ot
evidence *without the least offer of proof that there w*
understanding of any of these matters upon the part
the Canton audience other than the plain meaning of
words of that speech standing by itself. The trial
came distorted from the issue of the effect of defendan
words on other minds to a laboratory analysis of
state of defendant's own mind on June 16th, 1918. Si
the three charges in this review do not concern the
selves with criminality of language *per se,* there is
tolerable approximation of the standard suggested
one of the Senators (Cong. Rec., May 3, 1918, p. 6469)
punishing persons "under general principles" • •
"whose hearts are wrong."

The caution by the trial judge as to the limitation
this testimony to proof of criminal intent, repeated
the instructions, was of no benefit to the defendant, a
was really prejudicial in its nature. In so far as d
fendant's "state of mind" was in issue, it could on
have application to the specific criminal intent involv
in making the Canton speech, the intent without whi
that speech, no matter what its character, could not
made the basis of a charge of crime. Here was a reite
ated suggestion that this intent could be read into th
speech by the jury, from all these other sources, and th
read out again as if coming from the language of t
Canton speech itself. This was a method not of derivi
criminal intent out of that speech and its circumstanc

but or *reading criminal intent into it,* regardless of the potential effects of the Canton speech as a speech.

It would seem sufficient to state it as a self-evident proposition that the one fair way of dealing with the offers of evidence in this case was to give the jury what the audience at Canton got—a hearing of the one speech, with any description of the attendant circumstances, or gestures, or intonations, which would be helpful in making vivid what defendant did to influence his hearers. Or, if the language of the speech conceals its criminality, and this is to be elucidated by innuendoes, that this elucidation be definitely fixed in the understanding of the hearers subject to its invidious effects.

To illustrate, let us assume that there was some cabalistic word of phrase by which the speaker made known to his hearers the fact of the St. Louis Platform and his affirmance of that platform. (We ignore, of course, the character of that document, and the nature and pertinence of its affirmance in June, 1918.) Suppose that identification was made by testimony of hearers. What then? Is this sufficient to merge that document and the speech into one, as was done in this trial? As well say that the Constitution of the United States, or the Declaration of Independence, or the Bible, or all of these together, under a general affirmance by the speaker, in an interview or otherwise, should go to characterize his intent in making the speech of June 16th. As well open the doors to a reading into the record of the thousands of speeches made by Mr. Debs, four times candidate for the office of president of the United States, world renowned and active lecturer during a generation, every one of which undoubtedly reflected itself in the speeches which went before and after.

If the answer is that the test of relevancy is the
of other utterances as carried to the hearers in que
by the language declared upon, then we arrive at a
nite rule of exclusion applicable against both the p
cution and the defense alike, and this is the rule w
we invoke. The only "state of mind" which c
within the issues of this case is the specific crimina
tent to use a particular means, the speech at Canto
effect the criminal results charged. *People* v. *Molin*
168 N. Y., 297. Other utterances which do not inco
rate themselves in the "particular means"—as affec
the Canton audience—can have no application to
issue of intent in this case. Undoubtedly the trial ju
in his references to "state of mind," failed to make
exact differentiation between motive and intent, a dif
entiation which becomes easily confused in a crim
prosecution based on a man's public declarations of
own sentiments. Nevertheless, it is precisely in this
ferentiation that we find any rational basis for a rule
evidence as to the scope of inquiry in relation to ot
utterances.

This point was squarely raised in the recent case
United States v. *Krafft*, 249 Fed. 919 (Circuit Court
Appeals, Third Circuit). The charges in that case w
based on the Espionage Act before amendment, wher
was fairly open to contention that an actual injury
the military service, at least a frustrated inception
some interference, was the minimum requirement for a
charge under this law. But the court held that a will
purpose to cause insubordination was sufficient, goi
with the making of a speech. There were two issues:
what defendant said in his speech; 2, whether the la
guage was used with willful purpose to cause insubor
nation, etc. On the issue of intent, or purpose in maki
the speech charged, evidence was offered in behalf

the defendant of other utterances showing that he was in favor of the war with Germany. This evidence was held immaterial, and the reviewing court said (at p. 928):

> "What he said or did at other times and places was not material to the issues on trial."

Bearing in mind that the intention of the defendant in making his Canton speech cannot be arrived at except in the understanding of that speech itself, we cite further the accepted rule of *Post Publishing Co.* v. *Hallam*, 59 Fed. 530, that "words are to be construed according to their common understanding and not according to defendant's secret intention." The rules of construction of language in civil suits for slander and libel would, of course, be given even more strict application in dealing with words as the medium of committing felonies. If there is a hidden or covert meaning it must be known to those addressed (25 Cyc. 357). And in 25 Cyc. 355, the general rule of construction is stated as follows:

> "The rule is that words are to be taken in their plain and natural meaning and to be understood by courts and juries as other people would understand them, and according to the sense in which they appear to have been used and the ideas they are adapted to convey to those who heard or read them."

Or, as stated in *Reid* v. *Providence Journal Co.*, 20 R. I. 120:

> "Language is not to be forced or tortured in libel cases in order to make it actionable. It is to be taken in its plain and ordinary sense."

The rule as to spoken words is one of even greater liberality; Cooley on Torts, 2nd ed., p. 239, where the author says:

> "Vocal utterance does not imply the same degree of deliberation (as writing or printing); it is more

likely to be the expression of momentary pa
excitement, and it is not so open to the im
of settled malice. Therefore, if one shal
his neighbor, 'He is a rascal,' there is
strong probability that the expression
received by bystanders as anything mo
a mere vituperative epithet, indicative
feelings of the utterer, rather than
convictions. Therefore to such oral exp
little importance is generally attached. On t
hand, the same words deliberately written or
and afterward placed before the public, usua
tify an inference that they are the expres
settled conviction, and they affect the publ
accordingly.

"An oral charge is merely heard, and the ag
the wrongdoer in inflicting injury is at an en
the utterance has died upon the ear. But the
or printed charge may pass from hand to h
definitely and for many years."

Quoting again from *Reid* v. *Providence Journ*
20 R. I., at 122:

"The fact that supersensitive persons, wit
bid imaginations, may be able by reading b
the lines of an article to discover some defa
meaning therein is not sufficient to make it libe

The ordinary mind is the standard, and the or
instant impression of spoken words is the thing
tested. Consider, then, the incongruity of putti
fore these jurors, as a basis for judgment upon th
ton speech, the actual text of the St. Louis Pla
And this, merely on the basis of the one questio
answer in the interview of momentary character be
Clyde Miller and Mr. Debs, and not by any conn
with the Canton speech and its hearers.

We refer here to the preceding argument on th
mission of the indictments and records of convicti
other cases, on the basis of warm praise of these

persons by Mr. Debs in his Canton speech. All that is there said about proving intent by external evidence, as of prior convictions of same defendant, is also applicable here. The St. Louis Platform, if proclaimed by Mr. Debs in a public address or writing, by quotation of its text in full or part, on June 16, 1918, as of immediate pertinence, might very well, according to the understanding of the Espionage Act by the Government's attorneys, subject Mr. Debs to one or more criminal prosecutions. So of the Chicago speech of August 11th. There is nothing to be imagined about the confusion of issues in this proceeding, nothing left for surmise, when from the opening statement to the close of the argument the record leaves one in doubt whether the trial is proceeding upon the Canton speech or on the St. Louis Platform, so closely are the two held together before the jury.

There is no other angle from which the admission of this testimony can find support. To consider the proclamation of the Convention of April, 1917, as the initiation of a plan furthered by Mr. Debs on June 16, 1918, as indeed was the precise argument of the Government's attorneys, was to try him for conspiracy upon an indictment as sole defendant based on a single speech.

As to the possibility of invoking a doctrine of *res gestae*, of words accompanying other words as part of the same transaction, and constituting the criminal act, assuredly there is no shadow of affirmative argument. We call attention to the statement by Professor Wigmore, in his work on Evidence, Sec. 1774 (2):

> "The utterance serves merely to assist in completing and giving legal significance to conduct. Hence it is not needed when the conduct is already complete and definite in itself. The conduct must be equivocal or incomplete as a legal act before the utterances can be admissible."

Again, in Sec. 1775 (3):

"It follows, also, as necessary deducti
utterances must be such as serve the as
pose, namely, giving *definite significance*
ocal or indefinite conduct, by adding a m
They must be such as do merely this, and

The primary test, of course, is that the wo
"contemporaneous with the conduct." It is
ent for argument that words spoken to a rep
a Chicago audience, cannot form any part of
at Canton.

Of the Chicago speech, August 11th, it mig
that it can more easily be seen how it might
Debs to the jury as an unrepentant sinner
it attains pertinence to his achievements by wo
June 16th. There is no question of motive; n
as to the likelihood or unlikelihood of Mr. D
what he was charged with saying at Canton; n
corroboration by bringing a witness from C
to a speech in August. In the defamation cases
in relation to *malice* that subsequent publicatio
mitted. How anything said by Mr. Debs to Cl
on the day of his arrest, or at Chicago nearly tw
later, could be resolved into the consciousne
Canton hearers, or add to his *intent* on that oc
a good deal of a mystery.

We cite, finally, as to the admission of this t
the case of *United States* v. *Crandall,* 4 Cranch
(Fed. Cas. No. 14, 885). This was a prosec
libels tending to excite sedition among slaves
colored persons in the District of Columbia.
the charge was based on pictures, and the pr
offered these pictures into evidence attached to
phlets which explained them (to show the evil in

which the pictures were published). Quoting from the report (25 Fed. Cas. 689):

> "The court said, that if the matter now proposed to be read is not charged in the indictment, and would be, of itself, a substantive libel, and therefore indictable, it cannot be given in evidence."

• • • • • •

IV.

MILITARY FORCES.

The indictment, as to counts 3 and 7, proceeds on the assumption that all citizens between the ages of 21 and 30 constitute *the military and naval forces* of the United States. Count 4 assumes that all citizens between the ages of 18 and 45 are part of *the recruiting and enlistment service*. The instructions (268, 270) of the trial judge not only developed these assumptions, but even extended the definitions by including all persons in any way related to or intimate with citizens of these ages (270-271).

It is our contention that these terms, *military and naval forces*, and *recruiting and enlistment service*, have the definite meaning which is apparent in the plain reading of the statute, not the meaning by implication which has here been used. There has been a good deal of confusion about these terms in the decisions arising under this act, but probably no case brings before this court a more extreme broadening of the statute by implication than is presented here by the instructions of the trial judge, taking in "the attitude of friends, companions and relatives" as affecting the disposition of those within enlistment age.

On the general proposition of exact and strict construction of penal statutes it is not necessary for us to

cite further authorities. On the definition of military forces, we adopt the language of Judge Bourquin, in *United States* v. *Hall,* 248 Fed. 150, as follows:

> "Military and naval forces in the espionage act means the same as in the declarations of war, viz., those organized and in service, not those merely registered and subject to future organization and service."

The recruiting and enlistment *service* obviously denotes a definitely organized body or department of the military. These terms would be extremely inappropriate to a statute having reference to citizens of the United States generally; with such intent Congress would have avoided these technical names in favor of some phrase like "persons who might under the laws of the United States be subject to military service by compulsory or voluntary induction," or, in the recruiting clause, "citizens qualified to enlist."

The amendments of May 16, 1918, have not changed the clauses upon which counts 3 and 4 are founded, except to add the attempt feature to the recruiting clause, and to strike out "to the injury of the military service," presumably with the idea of discounting the suggestion of actual disturbance in the military forces.

The effect of this loose interpretation of these military designations in this case was, obviously, to direct attention entirely to general willingness to engage in the military service, aside from any question of legal obligation so to serve. The question was whether there might be an adverse effect on war enthusiasm and ardor, not whether anyone might be induced to forego his legal duty. In other words, these instructions and the indictment presented an issue of sedition, purely, and not an issue related to the organized military and enlistment services.

The terms "insubordination," "disloyalty," "mutiny" and "refusal of duty" bear definite understanding only in relation to an organized and established military body. Likewise, "to obstruct the enlistment service" obviously is not a description pertinent to the effect of utterances on the sentiments toward enlistment of people in general.

V.

THE ACTS CHARGED AGAINST DEFENDANT ARE PROTECTED UNDER THE FIRST AMENDMENT OF THE CONSTITUTION.

The vital issue of this case is the right of free speech. From several aspects, namely, the sufficiency of the indictment as a charge of crime, the ruling of the trial judge against the motion for a directed verdict for the defendant on all the counts of the indictment, and the instructions of the trial judge (274, 278) as to the range of public discussion free from Congressional limitation, this question is here presented on the review.

At the outset we avow our purpose to deal with this crucial issue of American liberty in a realistic sense. Counsel for Mr. Debs, as the record shows on its face, sought to intrude as little as possible between the presentation of the case for the Government and the defense of legitimate exercise by Mr. Debs of his right of free speech under the Constitution. In due deference to Mr. Debs, whose place in American history called for such expression of his understanding of his position as one charged with crime as he alone could give, counsel yielded to him the full time allowed for argument before the jury, and did not seek to develop his statement by way of examination on the witness stand.

The millions in many countries who respond to the idealism of Eugene V. Debs, from one angle or another,

will bluntly speak of the Debs case as a free speech fight. And their minds will not respond to a test of the right of free speech which concerns itself with the English common law arising out of the inspiration of the Star Chamber of Henry VII, which first applied the dormant Statute of Scandalum Magnatum (Statute 2 Richard 11 and 12 Richard 11). What they ask, we ask: What degree of tolerance of minority sentiments is to be read out of or into the American Bill of Rights in the year 1919 by the court of last resort? By this test has political freedom been gauged throughout the centuries. American tradition has so far made it unnecessary for this court to give a conclusive reading to the First Amendment in relation to a sedition enactment by Congress. With a profound sense of the significance of this present determination of the meaning of the First Amendment, for a century and a quarter the palladium of American freedom, we present the language of that amendment to the court as living words pertinent to the world as we know it—not as a harking back to legalistic shadings of restraints put upon opinion under the despotism from which the Revolution freed us.

* * * * * *

The present President has long held eminence as an authority on American political institutions and principles. In an address made October 13, 1899, at the annual meeting of the New England Association of Colleges and Preparatory Schools, Professor Wilson stated the perfect text for this brief. Especially significant is the relation of his statement to Spanish War criticism. He said:

> "We have seen a good many singular things happen recently. We have been told that it is unpatriotic to criticize public action. Well, if it is, then there is a deep disgrace resting uopn the origins of this nation. This nation originated in the sharpest

sort of criticism of public policy. We originated, to put it in the vernacular, in a kick, and if it be unpatriotic to kick, why, then the grown man is unlike the child. *We have forgotten the very principles of our origin if we have fogotten how to object, how to resist, how to agitate, how to pull down and build up, even to the extent of revolutionary practices if it is necessary, to readjust matters.* I have forgotten my history if that be not true history. * * *

"*Self-government is the opportunity of laymen to speak their minds about affairs and get heard upon a public forum.* That is the chief and essential feature of it. Just so long as European governments choke off discussion and put men in prison because of their opinions about personages in high places, they may have never so perfect a system of representation and never so modern a constitution, and be without self-government. Self-government is the free expression of lay, non-official opinion, and I know of no other essential characteristic about it."

* * * * * *

It is impossible to reconcile the published decisions in cases arising under the Espionage Act, on account of criticism of the government's war policies, with any rule as to the right of free speech. The First Amendment has been given some direct or inferential mention in practically all of these cases, but apparently the trial and Circuit appellate judges have easily swept it aside. In but one of these cases has there been discussion and definition leading to anything in the nature of a rule as to when the Espionage Act, applied to speech and press, might pass the bounds of constitutional validity. We refer to the discussion in *Masses Publishing Co.* v. *Patten*, 244 Fed. 535; 246 Fed. 24. While the decision in that case only goes to the question of the nature of the discretion lodged in the Postmaster-General under the Espionage Act, the discussion is somewhat helpful in presenting the gradation from a charge of crime based

on the use of words to incite specific action to a charg based on the objectionable temper of the words then selves.

Our contention here is that the pleadings, rulings o evidence and instructions have led to a sedition convic tion under a thin disguise of a charge of actual militar obstruction by means of words spoken to the Canton au dience, and that this conviction cannot be sustained un der any unequivocal application of the First Amend ment.

The indictment, under the several counts, presents no theory of the pleader as to the pertinence of defendant's words to move others to action. That is left entirely to argumentative inference. The record of testimony shows not one single question propounded on the basis of appropriateness of defendant's speech to affect one result or another through the minds and agency of his hearers. In fact there is the caricature of a conviction based nominally on military exigencies in which every witness who heard the speech, and who was within the military age, had not for one moment hesitated to fulfil his military obligations. That an "attempt" is charged only qualifies the degree of achievement; it does not carry the determination into the realm of metaphysical speculation based on hypothetical persons. The conclusion is irresistible that in spite of the cloak of military appropriateness given by a free use of the phraseology of the Espionage Act, the conviction of Mr. Debs rests squarely upon his "seditious temper"—and nothing else.

In the *Masses* case there was presented a series of articles and cartoons attacking bitterly the policy of conscription, holding up to admiration conscientious objectors, praising Emma Goldman and Alexander Berkman, who had been convicted of urging non-compliance

with the Conscription Act, and reflecting on the war declaration as the meek compliance of Congress with the orders of financial masters. The test of non-mailability under section 3 of the Espionage Act was made on the same basis as testing the sufficiency of this literature for charging a criminal violation of the provisions of this section, but in this respect the upper court relaxed the test in yielding to the determination of the Postmaster-General. District Judge Learned Hand granted an injunction against the New York Postmaster, holding that there was no basis for refusing delivery through the mails of the issue of the Masses in controversy. We quote from his opinion to indicate his method of dealing with public discussion in conjunction with the Espionage Act:

> "That such utterances may have the effect so ascribed to them is unhappily true; publications of this kind enervate public feeling at home, which is their chief purpose, and encourage the success of the enemies of the United States abroad, to which they are generally indifferent. Dissension in a country is a high source of comfort and assistance to its enemies; the least intimation of it they seize upon with jubilation. There cannot be the slightest question of the mischievous effects of such agitation upon the success of the national project, or of the correctness of the defendant's position.
>
> "All this, however, is beside the question whether such an attack is a wilfully false statement. That phrase properly includes only a statement of fact which the utterer knows to be false, and it cannot be maintained that any of these statements are of fact, or that the plaintiff believed them to be false. They are all within the range of opinion and criticism; they are all certainly believed to be true by the utterer. As such they fall within the scope of that right to criticize either by temperate reasoning, or by immoderate and indecent invective, which is normally the privilege of the individual in countries dependent upon the free expression of opinion as the

ultimate source of authority. The argument ma
trivial in substance, and violent and perverse in m
ner, but so long as it is confined to abuse of exis
policies or laws, it is impossible to class it as a f
statement of facts of the kind here in question.
modify this provision, so clearly intended to prev
the spreading of false rumors which may embarr
the military, into the prohibition of any kind
propaganda, honest or vicious, is to disregard
meaning of the language, established by legal c
struction and common use, and to raise it int
means of suppressing intemperate and inflammat
public discussion, which was surely not its p
pose."

The same construction would apply to the provisi
of the insubordination and enlistment clauses of Sect
3 constituting counts 3 and 4 of our indictment. Sur
an offense under these clauses must bear directly per
nent relation to the military and enlistment services, a
cannot be founded upon discussion of public policies
fecting public opinion and sentiment one way or anoth
It is the special embarrassment of the military whi
is protected by these two clauses as in the clause abo
analyzed by Judge Hand. As to the special charact
of the clause of Section 3 as now amended which is t
basis of count 7, this will be considered later.

Judge Hand proceeds upon "the normal assumptio
of democratic government that the suppression of hosti
criticism does not turn upon the justice of its substan
or the decency and propriety of its temper." He avoid
the direct question of Congressional power in this re
spect unless the statute clearly expresses the legislativ
intent to proceed on this basis. At page 540, he says:

"Assuming that the power to repress such opin
ion may rest in Congress in the throes of a struggl
for the very existence of the state, its exercise i
so contrary to the use and wont of our people tha
only the clearest expression of such a power justifie
the conclusion that it was intended."

We challenge the assumption that such power may rest on Congress at any time under any circumstances, and with this we deal later, but on the basis of the Espionage Act in its relations to the military program as such, undoubtedly Judge Hand has here indicated the correct rule of statutory interpretation. The next question is the rule by which spoken or written language may be measured as offenses against the Espionage Act (excluding now any effect of the amendments of May, 1918, to make utterances criminal *per se*). Such a rule is stated by Judge Hand, as follows:

> "Political agitation, by the passions it arouses, or the convictions it engenders, may in fact stimulate men to the violation of law. Detestation of existing policies is easily transformed into forcible resistance of the authority which puts them into execution, and it would be folly to disregard the causal relation between the two. Yet to assimilate agitation, legitimate as such, with direct incitement to violent resistance, is to disregard the tolerance of all methods of political agitation which in normal times is a safeguard of free government. The distinction is not a scholastic subterfuge, but a hard-bought acquisition in the fight for freedom, and the purpose to disregard it must be evident when the power exists. *If one stops short of urging upon others that it is their duty or their interest to resist the law, it seems to me one should not be held to have attempted to cause its violation.* If that be not the test, I can see no escape from the conclusion that under this section every political agitation which can be shown to be apt to create a seditious temper is illegal. I am confident that by such language Congress had no such revolutionary purpose in view.
>
> "The defendant's action was based, as I understand it, not so much on the narrow question whether these four passages actually advocated resistance, though that point was distinctly raised, as upon the doctrine that the general tenor and animus of the paper as a whole were subversive of authority and

seditious in effect. I cannot accept this test
the law as it stands at present. *The tradit*
English-speaking freedom has depended in no
part upon the merely procedural requiremen
the state point with exactness to just that co
which violates the law. It is difficult and ofte
possible to meet the charge *that one's general*
is treasonable; such a latitude for constructio
plies a personal latitude in administration
contradicts the normal assumption that law sh
embodied in general propositions capable of
measure of definition. The whole crux of this
turns indeed upon this thesis."

The point of challenge in the upper court op
against the ruling of Judge Hand was as to the r
sary degree of directness in urging conduct upon ot
especially in respect of advocacy of conduct by ho
up to admiration those who have violated the law i
precise connection of the military malfeasance atten
to be checked by this legislation. Since this point
interest to us, not alone in defining the necessary
nection between advocacy and action under this sta
but also in the analogy to the praise bestowed
Wagenknecht and others by Mr. Debs in his Ca
speech, we quote again the language of Judge H
(p. 542):

"One may admire and approve the course of a
without feeling any duty to follow him. There is
the least implied intimation in these words (pr
of conscientious objectors) that others are u
a duty to follow. The most that can be said is,
if others do follow, they will get the same adm
tion and the same approval. Now, there is su
an appreciable distance between esteem and em
tion; and unless there is here some advocacy of
emulation, I cannot see how the passages ca
said to fall within the law. If they do, it would
low that, while one might express admiration
approval for the Quakers or any established
which is excused from the draft, one could not

gally express the same admiration and approval for others who entertain the same conviction, but do not happen to belong to the society of Friends. It cannot be that the law means to curtail such expressions merely because the convictions of the class within the draft are stronger than their sense of obedience to the law. There is ample evidence in history that the Quaker is as recalcitrant to legal compulsion as any man; his obstinacy has been regarded in the act, but his disposition is as disobedient as that of any other conscientious objector. Surely, if the draft had not excepted Quakers, it would be too strong a doctrine to say that any who openly admire their fortitude or even approved their conduct were wilfully obstructing the draft."

The point of divergence from this opinion taken by the court of review is that the incitation to commit crime may stop short of a literal urging of the illegal performance. Account is taken as well of "the natural and reasonable effect of what is said to encourage resistance to a law." Counseling to crime may be indirect, but it is to be noticed that the citations of authorities relate to *accomplished crimes, traceable to such incitation*, not to the counseling or inducement standing by itself. The argument was that "the natural and reasonable" effect of this publication might be construed as an obstruction to recruiting, therefore that it was intended to obstruct recruiting. "And even though we were not convinced that any such intent existed, and were in doubt concerning it, the case would be governed by the principle that the head of a department of the government in a doubtful case will not be overruled by the courts in a matter which involves his judgment and discretion and which is within his jurisdiction."

The separate concurring opinion of Judge Ward, in the upper court, is very interesting as showing a hesitancy to go too far with the proposition of the effect

of language to produce a given result as t
tion for a statute limiting the use of the m
mention its serious criminal penalties. Ju
says:

> "Advice to resist the law may be indi
> as direct and the conclusion of the Postm
> eral in matters of fact, whether we agre
> or not, is final."

This is undoubtedly an overstatement of
given by the courts to findings made by adm
officers in the exercise of discretion subjec
review, and suggests at once that Judge Wa
ious to limit the effect of this decision to t
point of accepting the ruling of the Postmaste
He goes on:

> "I think it important, however, to say
> every writing the indirect effect of which
> courage recruiting or enlistment is within
> ute. In addition to the natural effect o
> guage on the reader, the intention to dis
> essential. Arguments in favor of immed
> or in favor of repealing the Conscriptio
> this indirectly. It is, notwithstanding, t
> tutional right of every citizen to express
> ion, both orally and in writing, and Cong
> not be presumed to have intended by the
> Act to authorize the Postmaster-General t
> such articles written honestly and witho
> tention of advising resistance to law."

The net result of the *Masses* case establishes
that a violation of Section 3 of the Espionage
inal clauses) consists of a purposeful urging,
or indirect means, of insubordination or refusa
in the military service, or purposeful obstru
like means, of the recruiting service. Unsatisf
is this decision, compounded of three distinct vi
it still represents the only published decisi

makes any serious attempt to reduce to a rule the criminality of public statements under those clauses of the Espionage Act which relate to interferences with the military or enlistment services. It is our contention that the rule as stated by Judge Hand is the correct rule, and that the test of criminal responsibility for expressions leading up to insubordination, etc., is the common law liability as an accessory, created by urging violation of law upon others. Beyond purposeful incitement to specific unlawfulness on the part of others, there is no power in Congress to make public utterances criminal —under any exigency, or as an incident of any express power granted to Congress under the Constitution.

* * * * * *

Before reverting to the indictment and instructions under consideration, we state shortly our understanding of the power of Congress to regulate public discussion by criminal enactments. Practically all of the cases since the adoption of the Espionage Act, in dealing with the right of free speech, while giving some measure of verbal recognition to that right, have abruptly swept aside any consideration of such a right in conflict with the general war purposes of the government. The inference of these decisions, and the obvious theory of the amendments to Section 3 of the Espionage Act added in May, 1918, is that public discussion can be constitutionally controlled as an incident of the war power. We earnestly submit that such interpretation of the right of free speech is a careless sweeping aside of the most vital principle of American freedom, not only without affirmative constitutional warrant, but in the face of the direct prohibition of the First Amendment.

When the Constitution was submitted to the States for ratification one of the chief points of opposition was the failure to include a Bill of Rights. The answer given, in the Convention by Roger Sherman (5 Elliott's

Debates, p. 545), and in the Federalist (No. 84) by Hamilton, was that as far as freedom of the press was concerned it was unnecessary to declare that a thing shall not be done which there is no power to do. In a letter to Jefferson, dated October 17, 1788 (Watson on the Constitution, p. 1359), Madison explained why he considered a Bill of Rights unnecessary, as tending to particularize in a domain where Congress had no power anyhow; and he then went on to explain why he was not opposed to adding a Bill of Rights, since power would assert itself against parchment guarantees of any kind and it was desirable to have the Bill of Rights as a basis of protest.

The First Amendment was not a limitation of the power of Congress to control free speech and the press but a simple denial of any such power. The common law and sovereignty control of speech and the press passed to the States, upon the Revolution, and remained there under the reserved powers, of which the Tenth Amendment is declaratory. We are not here concerned with State limitation of discussion, yet the definition of freedom of the press under the police power is pertinent to its clear demarcation from solicitation of crime. It is interesting, therefore, to note the statement of an eminent authority on police powers, Professor Freund, as to the extreme case of anarchist propaganda in relation to free speech. We quote from Freund's text on Police Powers, Sec. 475:

> "A proposition to forbid and punish the teaching or the propagation of the doctrine of anarchism, i. e., the doctrine or belief that all established government is wrongful and pernicious and should be destroyed, is inconsistent with the freedom of speech and press, unless carefully confined to cases of solicitation of crime, which will be discussed presently. As the freedom of religion would have no meaning without the liberty of attacking all re-

ligion, so the freedom of political discussion is merely a phrase if it must stop short of questioning the fundamental ideas of politics, law and government. Otherwise every government is justified in drawing the line of free discussion at those principles or institutions which it deems essential to its perpetuation,—a view to which the Russian government (1904) would subscribe. *It is of the essence of political liberty that it may create disaffection or other inconveniences to the existing government,* otherwise there would be no merit in tolerating it. This toleration, however, like all toleration, is based not upon generosity, but on sound policy, on the consideration, namely, that ideas are not suppressed by suppressing their free and public discussion, and that such discussion alone can render them harmless and remove the excuse for illegality by giving hope of their realization by lawful means."

Quoting further from the same author (Sec. 478, p. 513):

> "In accordance with the principles above set forth the constitutional guaranty of freedom of speech and press and assembly demands the right to oppose all government and to argue that the overthrow of government cannot be accomplished otherwise than by force; and the statutes referred to, in so far as they deny these rights, should consequently be considered as unconstitutional.
>
> "It is probably true to say that to the extent that anarchist agitation exceeds the bounds of free speech it is punishable under the principles of the common law, and that it is impossible to strike at anarchism as a doctrine without jeopardizing valuable constitutional rights."

It will be noted that the reasoning here is in exact accord with that of Judge Hand, as above quoted, with reference to anti-war agitation, except that Judge Hand makes the reservation that power to repress such opinion "may rest in Congress in the throes of a struggle for the very existence of the state." That this reservation is without substance is obvious when we ask at what

time is the life of the state, or its liberties, endangered? If this question is to be resolved by the declarations to that effect of one or many officials, such a danger will always exist as against the agitation desired to be suppressed. But if this question of danger to the state rests in the conscience of the people, how then can it ever become the foundation of legislation which gives it official fixity?

* * * * * *

In *Reynolds* v. *United States*, 98 U. S. 163, this court gave its approval to the Virginia Resolution drawn by Thomas Jefferson. That resolution defines the limits of toleration as follows:

> "To suffer the civil magistrate to intrude his power into the field of opinion, or to restrain the profession or propagation of principles, on supposition of their ill tendency, is a dangerous fallacy which at once destroys all liberty because he, being of course judge of that tendency, will make his opinions the rule of judgment, and approve or condemn the sentiments of others only as they shall square with or differ from his own. *It is time enough for the rightful purpose of civil government for its officials to interfere when principles break out into overt acts against peace and good order.*"

The Sedition Act of 1797 and its fate has heretofore been accepted as so decisive a settlement of the constitutionality of such legislation that our text-writers have dealt with the crime of seditious libel as obsolete. (Freund, Police Powers, Sec. 474.) Judge Cooley, in his book on "Constitutional Limitations," p. 526, says:

> "The Sedition Law was passed during the administration of the elder Adams, when the fabric of government was still new and untried, when many men seemed to think that the breath of heated party discussions might tumble it about their heads. Its constitutionality was always disputed by a large party, and its impolicy was beyond question. It

had a direct tendency to produce the very state of things it sought to repress. The prosecutions under it were instrumental, among other things, in the final overthrow and destruction of the party by which it was adopted, *and it is impossible to conceive at the present time of any such a state of things as would be likely to bring about its re-enactment or the passage of any similar repressive statute.*"

Alongside the frequent judicial expressions which have lately found their way into the cases in which free speech has been an issue, that public discussion is protected if it is *temperate*, or *honest*, or *fair*, or *loyal*, or *not subversive of the national purposes*, we set up the calmer wisdom of Judge Cooley (*idem.* p. 527):

"It is very easy to lay down a rule for the discussion of constitutional questions; that they are privileged if conducted with calmness and temperance, and that they are not indictable unless they go beyond the bounds of fair discussion. But what is calmness and temperance, and what is fair in the discussion of supposed evils in the government? And if something is to be allowed 'for a little feeling in men's minds,' how great shall be the allowance? The heat of the discussion will generally be in proportion to the magnitude of the evil as it appears to the party discussing it. Repression of full and free discussion is dangerous in any government resting upon the will of the people. The people cannot fail to believe that they are deprived of rights, and will be certain to become discontented, when their discussion of public measures is sought to be circumscribed by the judgment of others upon their temperance or fairness. They must be left at liberty to speak with the freedom which the magnitude of the supposed wrongs appears in their minds to demand; and if they exceed all the proper bounds of moderation, the consolation must be that the evil likely to spring from the violent discussion will probably be less and its correction by public sentiment more speedy than if the terrors of the law were brought to bear to prevent discussion."

It is our contention that Congress is without power pass any act in the nature of a sedition act, therefo we enter into no detailed comparison of the prese Espionage Act with the Sedition Law of 1797. Yet, sin the same principle is involved, it is interesting to no the grounds upon which the eminent lawyers of th time contested the constitutional validity of that ena ment. Although war with France was in preparation that time, it was never argued that the power to contr discussion existed as an incident of the war pow Mainly, in favor of the law, it was argued that the co mon law was part of the law of the United States, a co tention long since disposed of. The most careful sta ment of the relation of the Sedition Law to the impli powers of Congress is that of James Madison, in h famous report of the Virginia Legislature (Elliott's D bates, IV; also, Virginia and Kentucky Resolutio same volume).

* * * * * *

In the *Milligan* case, 71 U. S. 2, this court made cle the unchanged status of the Bill of Rights during ti of war. Quoting the eloquent language of Mr. Justi Davis:

> "Time has proven the discernment of our anc tors; for even these provisions, expressed in su plain English words that it would seem the ingenui of man could not evade them, are now, after t lapse of more than seventy years, sought to avoided. Those great and good men foresaw th troublous times would arrive, when rulers and pe ple would become restive under restraint, and se by sharp and decisive measures to accomplish en deemed just and proper, and that the principles constitutional liberty would be in peril, unless e tablish by irrepealable law. The history of t world had taught them that what was done in t past might be attempted in the future. The Cons tution of the United States is a law for rulers a people, equally in war and in peace, and covers wi

> the shield of its protection all classes of men, at all times and under all circumstances. No doctrine, involving more pernicious consequences, was ever invented by the wit of man, than that any of its provisions can be suspended during any of the great exigencies of Government. Such a doctrine leads directly to anarchy or despotism, but the theory of necessity on which it is based is false; for the government, within the Constitution, has all the powers granted to it which are necessary to preserve its existence, as has been happily proved by the result of the great effort to throw off its just authority. * * * But it is insisted that the safety of the country in time of war demands that this broad claim for martial law shall be sustained. If this were true it could be well said that a country, preserved at the sacrifice of all the cardinal principles of liberty, is not worth the cost of preservation. Happily it is not so."

* * * * * *

Mr. Debs made his speech at Canton to such a group of persons as he had addressed, as a noted and active publicist during three decades, thousands of times. The indictment charges that there were present in the audience young men of military and enlistment age. There was no dispute about this, and in fact it was reduced to irrelevance by the instruction of the trial judge that if Mr. Debs influenced anybody in a point of view inimical toward the war project, which these hearers might again transmit to friends of enlistment age, that was sufficient.

As has already been insisted, the charge of criminality does not relate itself to the speech—does not, we might more exactly say, *integrate* itself with anything that defendant said. The two, the formal averments and the speech, are set up in parallel columns. The indictment contains ten counts, but in no one of the counts is the pleading of the speech any different. The collision between the abstract averments and the speech is left for conjecture of judge and jury.

We call the attention of the court to the striking test of the character of this pleading, in that, in order to test the charges according to the canons of freedom of speech, under the Federal Constitution, we must search through this speech ten times—and ten times seek out for ourselves an affirmative theory of commission of the offense charged, or as many theories as any mind might produce out of this material in each of the ten instances, in order effectually to negative the charges as within defendant's right of free speech. The pleader having evaded the task of making a cogent charge, and the trial judge having again presented to the jury a series of legal abstractions alongside the mass of evidence, and the jury having added no clarification to the charges by the verdict, of what has defendant been informed except that, somehow, his speech, taken one way and another, is the basis of his conviction? Let another person seek guidance as to his rights of free speech and publication on the rule of this case, and what shall he find?

Inevitably, as we turn to this speech to see if there is anything in its character or text which leaves the domain of political discussion to enter upon solicitation of violations of law, we assume the viewpoint of the prosecuting attorney in argument, because the pleading leaves us no theory of unlawful speaking to take hold of. We must create such theories in order to answer them, *and this court would have to reconstruct, by its own inferences, the logic of the jury, in order to put into the record, for the first time, the three ways in which, by appropriate words to that end, the defendant induced or attempted to induce the several injuries to the United States to be fulfilled in the deeds of others.*

From our own viewpoint we would naturally see neither legal sense nor common sense, nor true honesty of criminal process, in straining to supply the series of

inferences, or rather guesses, invited by the pleader. We see no relation between the several formal recitals of the nature of certain crimes and the speech which they accompany, other than that they are printed in the same indictment and that the abstract averments state the time and place at which the speech was made. We would say, as Mr. Debs himself said (237):

"I admit having delivered the speech * * *. In what I had to say there my purpose was to educate the people to understand something about the social system in which we live and to prepare them to change this system by perfectly peaceable and orderly means into what I, as a Socialist, conceive to be a real democracy * * *.

"If I have criticised, if I have condemned, it is because I have believed myself justified in doing so under the laws of the land" (242).

But we go further. Search this speech through from first to last, and what is there in it that may be read as an incitement or encouragement toward dereliction of military or civic duty in relation to the war? Mr. Debs talks of the progress of the socialist movement and of the efforts to thwart it by misrepresentations; of Prussian militarism and the opposition of Bebel and the elder Liebknecht toward it as contrasted with the cordiality of Mr. Roosevelt toward the Kaiser and his enthusiasm for the German military system; of the reception of Prince Henry by the American plutocracy, with only James F. Carey, Socialist member of the Massachusetts Legislature, publicly protesting this obsequiousness to Kaiserism; of the universality of junkerdom, and its hypocritical pretensions of patriotism; of the assaults against Tom Mooney and Francis J. Heney; of the prosecutions against Kate Richards O'Hare, Scott Nearing, Max Eastman, Rose Pastor Stokes and the I. W. W.; of the Federal courts and the child labor decision; of the inspiration of Socialism; of the Bolsheviki of Russia; of

wars and their purposes; of landlordism; of explo
tion of the miners and the Socialist plan of common o
ership; of the history of the I. W. W. and the atta
against it; of the need of the workers for organizat
industrial and political.

Out of all this what rule would obtain by affirma
of defendant's conviction? *That this court supports
Espionage Law as a means of suppressing during
time an exposition and exhortation toward Sociali
national and international.* Anti-war politics would
confined to times of peace, when the issue has not
vitality of national immediacy. Certainly the lite
reader of the Espionage Act would find this a dubiou
subtle method of arriving at such a rule of criminal c
duct, with its extremely severe penalties.

One might assume, perhaps, that it is in what Mr. D
had to say about war that he subjected himself to
charges in the indictment, and, presumably, passed
bounds of political discussion to enter upon solicitati
or encouragement of conduct such as is described in
Espionage Act. What, then, did he say about wa
Turning from the subject of events in Russia, Mr. D
recalled the publication by the Russian Revolutioni
of the secret treaties—, "the treaties that were made
tween the Czar and the French government and the Br
ish government and the Italian government, proposi
after the victory was achieved, to dismember and d
perse and destroy the Central Powers." Sterling
port of Canton speech (204):

"These treaties have never been repudiated. Ve
little has been said about them in the American pre
I have a copy of these treaties showing that the purpo
of the Allies is exactly the purpose of the Central Po
ers. And that is the purpose that has always been t
purpose of war.

Wars have been waged for conquest, for plunder.
the Middle Ages the feudal lords, who inhabited the ca

tles whose towers may still be seen along the Rhine—whenever one of these feudal lords wished to enrich himself, then he made war on the other. Why? They wanted to enlarge their domains. They wanted to increase their power, their wealth, and so they declared war upon each other. But they did not go to war any more than the Wall Street junkers go to war. The feudal lords, the barons, the economic predecessors of the modern capitalist, they declared all the wars. Who fought the battles? Their miserable serfs. And the serfs had been taught to believe that when their masters declared and waged war upon one another, it was their patriotic duty to fall upon one another, and cut one another's throats, to murder one another for the profit and the glory of the plutocrats, the barons, the lords who held them in contempt. And that is war in a nutshell.

The master class has always declared the war; the subject class has always fought the battles; the master class has had all to gain, nothing to lose, and the subject class has had nothing to gain and all to lose, including their lives. They have always taught you that it is your patriotic duty to go to war and have yourselves slaughtered at a command. But in all of the history of the world you, the people, never had a voice in declaring war. You have never yet had. And here let me state a fact—and it cannot be repeated too often: the working class who fight the battles, the working class who make the sacrifices, the working class who shed the blood, the working class who furnish the corpses, the working class have never yet had a voice in declaring war. The working class have never yet had a voice in making peace. It is the ruling class that does both. They declare war; they make peace.

'Yours not to question why,
Yours but to do and die.'

That is their motto, and we object on the part of the awakened workers.

If war is right, let it be declared by the people—you, who have your lives to lose; you certainly ought to have the right to declare war, if you consider a war necessary."

At another point in the Canton speech, come
guage (208):

"And this is the high purpose of every So
the face of the earth. They are pressing forw
there, everywhere, in all of the zones that g
globe; everywhere these awakened workers, th
conscious proletarians, these horny-fisted chi
honest toil, everywhere wiping out the bounda
everywhere facing the larger and nobler pa
everywhere proclaiming the glad tidings of th
emancipation; everywhere having their hearts
to the most sacred cause that ever challenged
women to action in all the history of the world.
where moving toward democracy; everywhere
toward the sunrise, their faces all aglow with
of the coming day. These are the Socialists; t
the most zealous, the most enthusiastic crusa
world has ever known. They are making hist
will light the horizon in the coming generatio
are bound upon emancipating the human rac
have been reviled; they have been persecuted;
have been sufficient to themselves, pressing for
ward the height—aye, their triumph is now
begun!

Do you wish to hasten it? Join the Socialis
Don't wait for the morrow. Come now. Enr
name; take your place where you belong. Yo
do your duty by proxy. You have got to do so
yourself, and do it squarely, and look yoursel
face while you are doing it. And you will hav
casion to blush. You will know what it is to be a
woman. You will lose nothing; you gain everythi
only do you lose nothing but you are very apt
something, and that something will be yourself.
need to find yourself—to know yourself. You
know that you are fit for something better than
and cannon fodder. You need to know that y
not created to work and to produce to impoveris
self and to enrich an idle exploiter. You need
that you have a soul to develop, a manhood to
You need to know that it is your duty to rise ab
animal plane. You need to know that it is for
know something about literature, and about scie
about art. You need to know that you are on t
of a great new world."

We quote, finally, the closing sentences (214):

"And now for all of us to do our duty. The call is ringing in our ears. It is your duty to respond; and you cannot falter without being convicted of treason to yourselves. Do not worry, please—don't worry over the charge of treason to your masters, but be concerned about the treason that involves yourselves. Be true to yourself, and you cannot be a traitor to any good cause on earth.

Yes, we are going to sweep into power in this nation, and in every other nation on earth. We are going to destroy the capitalist institutions; we are going to recreate them as legally free institutions. Before our very eyes the world is being destroyed. The world of capitalism is collapsing; the world of socialism is rising.

It is your duty to help to build. We need builders of industry. We Socialists are the builders of the world that is to be. We are all agreed to do our part. We are inviting—aye, challenging you this afternoon, in the name of your own manhood, to join us. Help do your part. In due course of time the hour will strike, and this great cause—the greatest in history—will proclaim the emancipation of the working class and the brotherhood of all mankind."

There is little need for comment as to the nature of the appeal, or inducement to action, made in this speech. It is repeated again and again—organization of the workers along definite political and industrial lines in their own interest. War—its inherent nature throughout history, as defendant conceives it, is used as one argument toward this end. As to war itself, what is the exhortation? "Let it be declared by the people"—no other appeal, no other suggestion, except that wars are inherently associated with some system of exploitation.

War is a matter of political policy. The war declared April 6, 1917, was debated bitterly in Congress and throughout the country. There were 50 votes against the declaration in the House of Representatives, 6 in the Senate. The sentiment of the American people on this

date will always be a matter of wide varianc
ture. The continuation of war is a most v
of public policy. Is it intended by the Esp
to be made the exclusive concern of one or
cials? The alternative to free discussion o
matter of public, or political policy, during
a preposterous perversion of the established
of our own history, and a caricature of freed
and speech. It would be to say that an inhi
free discussion arises in degree of vital intere
in such discussion.

It will probably be contended that it is t
effect of these statements, the appeal inhe
statements themselves, regardless of the affi
peal made by the speaker to his hearers, upo
charges of the indictment are predicated.
obvious at once, when the problem of the pr
realized, why the Government had to seek s
to establish an "intent" to violate the Espio
an "intent" derivable in law, no matter hov
up extraneously, only from the materials of t
speech. From "the reasonable and natu
quences" of this speech, the specific crimi
three ways to prevail upon others in avoida
tary duties! Indeed it is not surprising that t
facing the original ten counts, made no attem
a special and definite theory of the offense i
of them.

Every way we approach this indictment, a
structions of the court, we arrive at the contr
*statement of an offense upon the basis of th
defendant's words to incite action or inactio
part of others* and the *actuality of a charge an
ceeding upon the basis of defendant's words
ror of his own mind in relation to war.*

There is not one syllable of this speech, or of any other statement of Mr. Debs, which does not come well within the range of freedom of speech. There is no statement attributable to him, and upon which the charge of the trial judge could proceed, which could be given criminal character by any act of Congress in conformity with the Constitution.

* * * * * *

Now as to the 7th count, which is one of the three counts upon which the conviction rests. The charge is that the defendant "did then and there unlawfully, wilfully and feloniously utter and publish certain language intended to incite, provoke and encourage resistance to the United States, and to promote the cause of its enemy, to wit, The Imperial German Government, etc."

There are three possible theories of this clause of the Espionage Act. The first is: to commit treason by instigation to treason. While the language might very well bear this construction it is an impossible basis upon which to sustain the clause, by the elementary principles applicable to the crime of treason. Congress has no power to amend or enlarge the definition of treason written into the Constitution.

The second alternative as to this clause is to give it the understanding of sedition, in the broad sense of irritating the general consciousness against the fact and program of war. This alternative is not only untenable under the First Amendment; it would have so glaring a vice of indefiniteness and generality in a criminal statute that it could not be entertained as the basis for an indictment.

The final alternative, the one apparently accepted by the pleader and the court in this case, is to deal with this clause as repetition and summary of the clauses

dealing with interferences with, and disobedience within, the military and enlistment services. This clause, in any reading, is of doubtful propriety in a criminal statute, but if its definition is of such character that it is properly joined with the other two clauses upon which the foregoing argument proceeds, we need press our objections to its constitutional validity no further.

* * * * * *

A case could not be imagined which brings more clearly and simply before this court the question whether or not ours is in truth "a government of opinion." It is only under the trying conditions of war, or other great national stress, that such a question could arise in a vital way. If the government is ever entitled to command a good opinion of itself and its policies on the part of its "subjects," the criterion enunciated by Lord Holt and many who entertain the same contempt of the people in our own day, then the event of war cannot remain the limit of power to silence "sedition." Either the First Amendment means all that it says—in the literal reading of Mr. Debs—or it means absolutely nothing. This latter alternative might seem an over-statement alongside the phraseology of "freedom from prior restraint." This is the favorite expression of some writers, but no matter that "freedom from prior restraint" may have meant much to the writers of a century and a half ago against the imprimatur by which all printing was subjected to despotic authority; it need only be said that the dependence of all present-day circulation of writings on the government postoffice, with power acknowledged in Congress to control broadly what shall go through the mails, leaves this distinction meaningless.

Freedom of speech, as enunciated by the First Amendment, must be declared in the broad terms of its universal understanding as the primary condition of human progress. No precision of judicial logic will give credence to any other reading of the First Amendment.

Respectfully submitted,

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Of Counsel.

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SUPREME COURT U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, A. D. 1918.

No. 714.

EUGENE V. DEBS,
Plaintiff in Error.

vs.

THE UNITED STATES OF AMERICA,
Defendant in Error.

In Error to District Court of the United States for the Northern District of Ohio.

PETITION FOR REHEARING.

SEYMOUR STEDMAN,
CHICAGO, ILLINOIS;
WILLIAM A. CUNNEA,
CHICAGO, ILLINOIS;
JOSEPH W. SHARTS,
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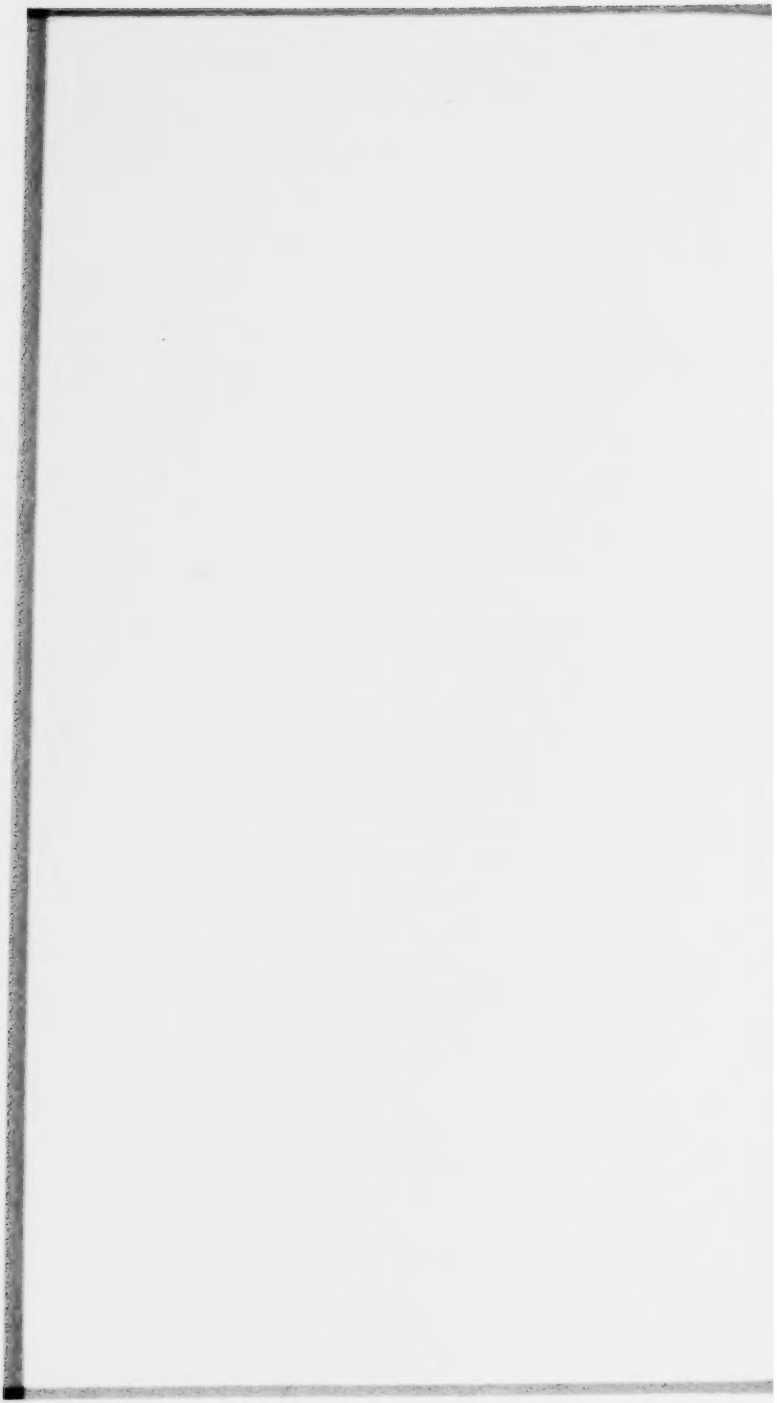

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PETITION FOR REHEARING.

MAY IT PLEASE THE COURT:

I.

This court has completely misconceived the issues presented by the indictment and plea thereto in this case. This court, referring to the address of Mr. Debs, says:

> "The main theme of the subject was Socialism, its growth and a prophecy of its ultimate success. With that we have nothing to do, but if a *part* or the manifest *intent* of the more *general* utterances was to *encourage those present to obstruct the recruiting service* and if in passages such encouragement was directly given the immunity of the general theme may not be enough to protect the speech."

It *was not charged* in the indictment or ch
in the trial against the defendant that he did
courage those present to obstruct the recruitin
vice" or that it was "part" or wholly his "in
to do so.

The defendant was not charged with aidi
abetting the "obstruction of the recruiting ser

There was no evidence that any person p
at the meeting or absent, obstructed, or eve
tempted to do so. The defendant, in person
charged with an *attempt* to *obstruct;* not as
ting some one. And in the absence of such a c
and proof to sustain it, the judgment of the
trict Court, as this court reasons, should
versed because the opinion of this court stat
entirely different theory of law than that
which the defendant was actually tried and
victed.

II.

This court further quotes defendant as fo

> "The master class has always declared th
> and the subject class has always fought th
> tles—that the subject class has had noth
> gain and all to lose, including their lives;
> the working class, who furnish the corpses
> never yet had a voice in declaring wa
> have never yet had a voice in declaring
> You have your lives to lose; you certainly
> to have the right to declare war if you co
> it necessary."

This court does not point out or argue in what way or how the statement

> "that the working class have no voice in declaring war and have never yet had a voice in declaring peace," etc.,

obstructs the recruiting or enlistment service. Mere speculation as to *remote* or *possible* effects upon the mind of an exceptional individual predisposed to obstruct, by a disinclination to enlist, would, we contend, be insufficient to justify a conviction, and it is a fact worthy to be called to this court's attention that it was not even intimated upon the trial that any person's mind had been affected contrary to the impulse of enlistment, much less induced to commit the offense of an actual obstruction.

III.

This court further quotes the defendant as follows:

> "He said that he had to be prudent, that he might not be able to say all he thought, thus intimating to his hearers that they might infer that they meant more."

The defendant was not charged with an undisclosed state of mind. The speaker was calling attention to the misinterpretation which might be placed upon his language, and what he said was this:

> "I realize (Printed Record page 3) that in speaking to you this afternoon there are certain limitations upon the right of free speech. I must be exceedingly careful, prudent, as to what I say and even more careful and prudent

> as to how I say it. I may not be able t
> I think, but I am not going to say anyth
> I do not think."

This shows the defendant did *not* propose any statement which would constitute a viol the law; that there were criticisms which *in mind* which he did *not* propose to state they *might* be interpreted as constituting an On what theory of justice can criminality ferred by speculating on the meaning of sta which *might* be misunderstood or construe infraction of the law. The opinion of this expressed upon this sentence of Mr. Debs amounts to the trial of a person for an und "state of mind." What was in his mind is gested by the court, so *we* are not able to the vice, or the evil of the "more" whic might infer." We do not know whether tha defendant's mind, if expressed, would cons *violation* of law or *not*, and submit that it ha been the law of this country that an undisclo tive constituted an element of crime until cision was rendered.

IV.

This court, *adopting another's opinion*, quotes the defendant as follows:

> "The defendant next mentioned Rose Stokes, convicted of attempting to cause ordination and refusal of duty in the forces of the United States and obstruct recruiting service"—"and if she was g was he."

To give this its proper setting in meaning, this court should have added the following which the defendant said in this connection:

> "Why she said that a government—a government could not serve both the profiteers and the victims of profiteers."

It was upon this that the defendant based his criticism of Mrs. Stokes' conviction, and added:

> "If she is guilty, so am I."

The defendant here expressed the thought that if Mrs. Stokes was guilty of a *felony* for stating that

> "the government could not serve both the profiteers and the victims of profiteers,"

then he was guilty of the content of this statement. It may be that a government *can*

> "serve both the profiteers and the victims of profiteers,"

some may believe this is possible; some may even believe that it is probable, but we submit that it should not be an element of criminality that a person's mind so operates that he believes a government

> "*cannot* serve both profiteers and the victims of profiteers";

and courageous persons who have expressed the opinion that a government cannot serve both the profiteers and the victims of profiteers—must admit that they are equally as guilty as the person referred to who has been convicted for making this statement. No court of review that we know of in this country has heretofore gone so far as this to supply criminal intent, or motive.

V.

ARGUMENT NOT EVIDENCE.

This court further quotes the defendar lows:

> "The defendant addressed the jury and while contending that his speech warrant the charges, said:
> "'I have been accused of obstructing I admit it. Gentlemen, I abhor war an oppose war if I stood alone.'"

Had this remark been made by counsel ming up before the jury, it would not have sidered in any sense as evidence—or the *a* of a fact. An argument by defendant o does not constitute *evidence* and the jury instructed. As the statement of Mr. Del the jury in his argument did not consti dence in his *favor*, on no just theory shou stitute evidence against him. An argume sworn testimony or subject to cross-exa and it is an axiomatic proposition of law th has no right to supply facts or evidence fr ments made in argument for the primar that it is not sworn to, and this applies t as well as a jury. The argument before a sists in a theory advanced and deductio from the evidence.

We insist that opposition to war, stated clusion, does not constitute an admissio structing recruiting. If this court decides position to war is an element of crime, th

sition to peace; opposition to a tariff; opposition to an impost tax; opposition to an inheritance law and opposition to prohibition can equally be interpreted as elements of criminality.

Opposition to war is a motive; it is not an intent. Motive and intent are clearly distinguishable.

VI.

MISTAKE OF FACT.

Referring to the cases of Ruthenberg, Wagenknecht, Baker, Rose Pastor Stokes and Kate Richards O'Hare, this court says:

> "The defendant purported to understand the grounds under which these persons were imprisoned."

This being so, then the defendant should have his conduct interpreted upon the "grounds" which he "understood" as the reason and basis for the conviction of the persons mentioned, and not on the records showing a different state of fact than that which he "understood." It is unjust to convict a person for what they do not understand the facts to be. It is the law that ignorance of the law excuses no one, but this is not the law when applied to *facts*. A person threatened by a footpad who is pointing a revolver is not required to know whether the revolver is loaded or empty before defending himself from a threatened attack; furthermore, the only "understanding" to be taken into account is that of the speaker and hearers in relation to the words about Stokes, O'Hare, Wagenknecht *et al.* used by the defendant.

VII.

MOTIVE AS AN ISSUE.

This court says, referring to the Anti-War Proclamation and Program, adopted at St. Louis, May, 1917, by the Socialist Party:

> "Defendant had stated that he approved of the platform in spirit and in substance and the defendant referred to it in his address to the jury *seemingly with satisfaction* and willingness that it should be *considered as evidence.*"

Does it become evidence because the defendant "seemingly" was willing that it should so become? Is law made this way? What a strange character is introduced here without credentials. The argument before a jury is not evidence under oath; a cross-examination is impossible. Counsel for defendant may admit facts upon which a court or jury may act in civil cases. But only sworn testimony will warrant a conviction in a criminal case, and this is so where a plea of guilty is entered. Courts should hesitate before going outside of the law to sustain a conviction even to accommodate a "seeming" willingness of a defendant.

The principles and spirit of the St. Louis Proclamation are that wars are the result of commercial rivalry and the economic development which makes the expansion for markets the inevitable process in a capitalist industrial society. The acceptance of this principle or theory, that is, that wars are primarily and basically industrial in character, cannot justify the inference that a person is obstructing re-

cruiting and enlistment because of the acceptance of this economic theory, whether it is true or false. May it not be that territorial expansion might really serve in many instances as an inducement to enter into the army and to carry out the expanding policy of a country?

This court, after quoting from the St. Louis War Proclamation (which was not referred to in the address of Mr. Debs), says that the defendant

> "accepted this view and this was a declaration of his duties at the time he made his speech is evidence that if in that speech he used words tending to obstruct the recruiting service he meant that they should have that effect. The principle is too well established and too manifestly good sense to need citation of the books."

The trial court (Printed Record page 265) was of the opinion, and so charged the jury, that what was in the mind of the speaker, his motive, could in no way excuse him, and of course by parity of reason in no way should it condemn him.

The trial court charged as follows:

> "The fact (Printed Record page 265) that his acts and utterances may have been made in furtherance of the purpose and policies of a political party or a political conviction is not, in the law, an excuse or defense."
>
> "You should (Printed Record page 276) be careful not to *mix* motive with intent. Motive is that which leads to the act; intent is that which qualifies it. Crime may be committed with what may be regarded as a good motive, or it may be committed with an evil motive, or it may be committed with a good and evil motive. To illustrate: The father of a large family steals bread for his starving children, and also

> to deprive the owner of its value. He may have two motives, one good, the other evil; but he is guilty, notwithstanding he has a *good motive* as well as an *evil motive*, for the law says he must not steal at all. So in this case, no matter if the defendant's *motive* and *purpose* may have been *good* and had been merely that which I have above stated as a part of his contention, namely, to convey information to his fellow citizens in the assumed exercise and in the belief that he was rightfully exercising the constitutional right of free speech, he is nevertheless guilty if he had the specific criminal intent to accomplish the acts and produce the effects and results forbidden by the specific provisions of the law to which I have called attention."

In the case of *United States* v. *Rose Pastor Stokes* the court instructed the jury that the motive of the defendant could not be taken into consideration by the jury in determining guilt or innocence. This court evidently is following a different rule than that adopted by the trial court. The distinction between motive and intent, so frequently confused, is best elucidated and stated in *People* v. *Molineaux*, 168 N. Y. 297, referred to in our brief in this case. This court erroneously bases, at least in part, its judgment upon the motive of the defendant. In the trial court we were denied the privilege of showing a good motive that would argue for acquittal. In the trial court this benefit was taken away, but this court in referring to the St. Louis Platform jumps into the mind of the defendant and from his state of mind advances a reason for sustaining the conviction. If it is good law to use motive for the purpose of sustaining a conviction then it should have

been equally as good law upon which the defendant was entitled to rely for the purpose of an acquittal. It is an *unjust* application of the law to say to a defendant your motive may furnish an ingredient justifying a *conviction* but your motive *cannot* furnish an ingredient *justifying your acquittal*, and this principle is too well established in law and too manifestly good sense to need citation of the books.

VIII.

WHO ARE IN MILITARY SERVICE.

The trial court (270) charged the jury

> "that all persons between the ages of 18 and 45, both inclusive, who are citizens of the United States and who have declared their intention to become citizens of the United States and who are not subjects of the nations with which we are at war and were then eligible for enrollment and enlistment in the recruiting service."

This instruction was broader than the apparent definition of this court, which says,

> "persons registered under the act of May, 1917, and subject to be called into active service were a part of the military and naval forces."

The jury had a right to accept and base their verdict upon the broader interpretation of the act given by the trial court. The record presented this question to the court, that is, are persons within the military and naval forces of the United States who are *not registered* and who are *not called* and who are not *enlisted? Is every citizen* in the United States *not* an alien between the ages of 18 and 45

within the military service of the United States? *This is an undetermined question by this court and it was presented in this case, and we submit we are entitled to a clear deciding of this matter.*

Respectfully submitted,

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In the Supreme Court of the United States.

OCTOBER TERM, 1918.

EUGENE V. DEBS, PLAINTIFF IN error,
v.
THE UNITED STATES OF AMERICA, defendant in error.
} No. 714.

IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF OHIO.

BRIEF FOR THE UNITED STATES.

STATEMENT OF THE CASE.

On June 18, 1918, the plaintiff in error, Eugene V. Debs (hereinafter referred to as the defendant) made a speech at Canton, Ohio, which forms the basis of the charge on which he was tried and convicted. This was the period, it will be remembered, of the great 1918 German offensive when the situation on the battle fields of France and Belgium called for the greatest and speediest possible mobilization of men for the Army. On May 20, 1918, Congress had passed the act covering into the draft

men who had reached the age of twenty-one subsequent to the original registration of June 5, 1917. Draft boards were being called upon for their maximum of activity and the recruiting service of the Army was actively at work throughout the country. It was this period of crisis in the military situation which the defendant chose for his Canton speech.

The speech was delivered out-of-doors in a public park of the city of Canton, and constituted the closing event of a convention of the Ohio State Socialist Party. It was delivered from a band stand. No American flag was displayed upon the band stand nor in the park. The audience was variously estimated at from two hundred and fifty to fifteen hundred persons. Young men of draft ages predominated or at least were present in large numbers, four of whom were identified in the indictment by name and two of whom took the stand. (R. 167, 190, 223, 225, 231.)

At a short distance from this park was the Canton city workhouse, in which were confined Alfred Wagenknecht, Charles Baker, and Charles E. Ruthenberg, the three Cleveland men who, at a Socialist meeting in the city of Cleveland, had delivered speeches against the war and the draft which had caused their conviction for counseling and abetting a violation of the draft law, a conviction which was later upheld by this court in 245 U. S. 480. Immediately preceding his address, the defendant had visited these men in the workhouse. He opened his speech with the statement that he was speaking to

and for the working classes, and then referred to his visit to the workhouse in the following words (R. 194):

> I have just returned from a visit over yonder (pointing to the workhouse), where three, three of our most loyal comrades are paying the penalty for their devotion to the cause of the working class. They have come to realize, as many of us have, that it is extremely dangerous to exercise the constitutional right of free speech in a country fighting to make democracy safe in the world.

A minute or so later he added (R. 194, 195):

> They are simply paying the penalty that all men have paid in all the ages of history for standing erect, and for seeking to pave the way to better conditions for mankind.
>
> If it had not been for the men and women who in the past have had the moral courage to go to jail, we would still be in the jungles.

Then followed a general reference to the Socialist movement, its situation and opportunities, beginning with the sentence "There is but one thing that you have to be concerned about and that is that you keep foursquare with the principles of the international Socialist movement." (R. 195.) The course which he advocated for the members of the working classes in the war between them and what he called the exploiting classes may be illustrated by the following passage, which again included a reference to Baker, Wagenknecht, and Ruthenberg (R. 196):

> It is true that these are anxious, trying days for us all—testing days for the women and

men who are upholding the banner of the working class in the struggle of the working class of all the world against the exploiters of all the world; a time in which the weak and cowardly will falter and fail and desert. They lack the fiber to endure the revolutionary test; they fall away; they disappear as if they had never been. On the other hand, they who are animated with the unconquerable spirit of the social revolution, they who have the moral courage to stand erect and assert their convictions; stand by them; fight for them; go to jail or to hell for them, if need be, and—they are writing their names, in this crucial hour—they are writing their names in fadeless letters in the history of mankind.

Those boys over yonder—those comrades of ours—and how I love them—aye, they are my younger brothers; their very names throb in my heart, and thrill in my veins, and surge in my soul. I am proud of them; they are there for us; and we are here for them. Their lips, though temporarily mute, are more eloquent than ever before; and their voice, though silent, is heard around the world.

Then followed (R. 196–203) a picture of the contrast between the patriotism of militarists, junkers, and other types of those called exploiters and the patriotism of the socialist working class leaders. Persons named as illustrations of the one group were Theodore Roosevelt, the German Kaiser, various governmental bodies, Wall Street junkers, and of the other group, Kate Richards O'Hare, Scott Nearing,

and others. The reference to Kate Richards O'Hare (R. 200, 201) was as follows:

> Let me review another bit of history in connection with this case. I have known Kate Richards O'Hare intimately for twenty years. I know her record by heart. Personally, I know her as if she were my own younger sister. All who know her know she is a woman of absolute integrity. And they know, too, that she is a woman of courage, and they know that she is a woman of unimpeachable loyalty to the Socialist movement. When she went out into Dakota and made her speech, followed by plain-clothes men in the service of the Government intent upon encompassing her arrest and her prosecution and her conviction—when she was out there, it was with the knowledge that sooner or later they would accomplish their purpose. She made a certain speech, and that speech was deliberately misrepresented for the purpose of securing her conviction. The only testimony against her was that of a hired witness. And when thirty farmers, men and women, who were in Bismarck to testify in her favor, to swear that she had never used the language she was charged with having used, the judge refused to allow them to go upon the stand. This would seem incredible to me, if I had not had some experience of my own with a Federal court.

He then pictured the Bolsheviki revolution in Russia as the acme of the working class movement

which he was praising and glorifying, saying (R. 20
204):

> And the very first act of the immortal revo
> lution was to proclaim a state of peace wit
> all the world, coupled with an appeal, not t
> the kings, not to the emperors, not to th
> rulers, not to the diplomats, but an appeal t
> the people of all nations. There is the ver
> birth of Democracy, the quintessence of free
> dom. They made their appeal to the peopl
> of all nations, the allies as well as the centra
> powers, to send representatives to a conferenc
> to lay down terms of peace that should b
> Democratic and lasting. Here was a fine—
> here was a fine opportunity to strike a blow
> to make Democracy safe in the world. Wa
> there any response to that noble appeal
> And here let me say that that appeal will be
> written in letters of gold in the history of the
> world. Was there any response to that ap-
> peal? (From the crowd "No.") Not the
> slightest.

Then, in the course of a discussion of the secret treaties between the allies discovered by the Bolshevist leaders, the defendant proceeded (R. 204):

> I have a copy of these treaties showing that
> the purpose of the allies is exactly the pur-
> pose of the central powers. And that is the
> purpose that has always been the purpose of
> war.
>
> Wars have been waged for conquest, for
> plunder. In the middle ages the feudal lords,
> who inhabited the castles whose towers may

still be seen along the Rhine—whenever one of these feudal lords wished to enrich himself, then he made war on the other. Why? They wanted to enlarge their domains. They wanted to increase their power, their wealth, and so they declared war upon each other. But they did not go to war any more than the Wall Street junkers go to war. The feudal lords, the barons, the economic predecessors of the modern capitalist, they declared all the wars. Who fought the battles? Their miserable serfs. And the serfs had been taught to believe that when their masters declared and waged war upon one another, it was their patriotic duty to fall upon one another, and to cut one another's throats, to murder one another for the profit and the glory of the plutocrats, the barons, the lords who held them all in contempt. And that is war in a nutshell. The master class has always declared the war; the subject class has always fought the battles; the master class has had all to gain, nothing to lose, and the subject class has had nothing to gain and all to lose, including their lives. They have always taught you that it is your patriotic duty to go to war and to have yourselves slaughtered at a command. But in all of the history of the world, you, the people, never had a voice in declaring war. You have never yet had. And here let me state a fact—and it can not be repeated too often—the working class who fight the battles, the working class who made the sacrifices, the working class who shed the

blood, the working class who furnis
corpses, the working class have never y
a voice in making peace. It is the
class that does both. They declare
they make peace.

"Yours not to ask the question wh
Yours but to do and die."

That is their motto, and we object o
part of the awakened workers.

If war is right, let it be declared b
people—you who have your lives to lose
certainly ought to have the right to d
war, if you consider a war necessary.

Then followed a discussion of the Rose P
Stokes case, in which the defendant said (R.

Rose Pastor Stokes. And when I me
her name, I take off my hat—mental
least. (He spoke without a hat on his h
Here is another heroic and inspiring com
She had her millions of dollars. Did i
strain her an instant? Her devotion t
cause had arrested all consideration
financial or an economic nature. She
out to render her service to the caus
this day of crises, and they sent her t
penitentiary for ten years. Think o
Ten years! What had she said? Not
more than I have said this afternoo
want to admit—I want to admit, wit
argument, that if Rose Pastor Stok
guilty, so am I. If she is guilty, I wou
be cowardly enough to plead innocence.
if she ought to be sent to the penitent
for ten years, so ought I.

> What did she say? Why, she said that a Government—a Government could not serve both the profiteers and the victims of the profiteers. Isn't that true? Certainly.

Then comes (R. 207, 208) a passage of passionate praise for minorities and class-conscious proletarians, followed by an appeal to join the Socialist Party, containing the following words, "you need to know that you are fit for something better than slavery and cannon fodder." In the course of this appeal for joining the Socialist Party, the defendant returned to the subject of Baker, Ruthenberg, and Wagenknecht in the following passage (R. 209):

> There is a great deal of hope for Baker, Ruthenberg, and Wagenknecht, but for the fellow that is nobody there is no pardoning power. He is 'in' for life. Anybody can be nobody, but it takes a man to be somebody.

Adding a moment later (R. 209, 210):

> You are in a crucible to-day, Mr. Socialist. You are going to be tried, to what extent no one knows. If you are weak fibered, that weakness will be sought out, and located. And if, through that weakness, you are conquered, you may be driven out of the Socialist movement. We will have to bid good-by to you. You are not the stuff of which revolutionists are made. We are sorry for you unless you happen to be an intellectual. The intellectuals, a good many of them, are already gone. No—no loss on our side, nor any gain of theirs.

Throughout this part as well as the remainc the address, the contrast between the capitalist exploiting class on one hand and the working on the other is constantly drawn, permeating a every sentence. For instance (R. 210 and 211), paying his respects to the owners of the railroa one species of the exploiters, he turns to an exploiting group, namely the landlords, sayin the course of this portion of the address (R. 21

> They are talking about your patriotic Among other things, they are advising y cultivate war gardens—cultivate a war den. While they are doing this, a Go ment war report shows that practically two per cent of the arable, tillable soil is out of use by the profiteers, by the land m ulators—held out of use. They, themse do not cultivate it. They could not if would. They don't allow others to culti it; they keep it idle to enrich themselve pocket the hundreds of dollars of unea increment. Who is it that makes their valuable while it is fenced in and kept o use? It is the people. Who pockets tremendous value? The landlords. The l lords. Who is the patriot? And while are upon the subject, I want you to think u the term "landlord." Landlord, lord of land? This lord of the land is a great pat This lord, who professionally owns the ea tells you that he is fighting to make the w safe for democracy—he, who shuts all hum ity out; and he who profiteers at the exp of the people who have been slain by m

> plied thousands, under the pretense of being the great patriot he is—he, who is your arch-enemy; he it is that you need to wipe from power. It is he, it is he that is a menace to your loyalty and your liberty far more than the Prussian junker on the other side of the Atlantic ocean."

Then follows an attack upon another group of exploiters, the owners of coal mines and an advocacy of the socialization of the ownership of mines and then, by way of contrast, a laudation of the I. W. W., in the course of which the defendant said (R. 213):

> But, when the war press says war, you may rest assured that every pulpit in the land will say war. And when Wall Street says peace, they will all say peace, because they are simply instruments of Wall Street. The pulpits in every age have been on the side of every ruling exploiting class, and not on the side of the people.

The picture of a bitter conflict between the exploiting classes and the working classes is carried throughout the remainder of the address, which ends with an appeal to all members of the working-class to do their duty in this time of crisis and emergency. The nature of this duty as described by the defendant may be judged from the following passage, occurring toward the end of the address (R. 214, 215):

> And now for all of us to do our duty. The call is ringing in our ears. If you do, it is your duty to respond; and you can not falter

without being convicted of treason
selves. Do not worry, please; don
about the charge of treason to your
but be concerned about the trea
involves yourselves. Be true to yo
and you can not be a traitor to a
cause on earth.

The indictment originally contained 10 co
based upon section 3, Title I of the Espio
(act of June 15, 1917, c. 30, 40 Stat.
amended by the act of May 16, 1918 (Pub.
65th Cong. 2d sess.), the full text of which
found in the margin.[1] By virtue of withdra

[1] SEC. 3. Whoever, when the United States is at war, sh
make or convey false reports or false statements with intent
with the operation or success of the military or naval forces o
States, or to promote the success of its enemies, or shall willfu
convey false reports or false statements, or say or do anythin
way of bona fide and not disloyal advice to an investor or inv
intent to obstruct the sale by the United States of bonds or
ties of the United States or the making of loans by or to the U
and whoever, when the United States is at war, shall willful
attempt to cause, or incite or attempt to incite, insubordination
mutiny, or refusal of duty in the military or naval forces of
States, or shall willfully obstruct or attempt to obstruct the r
enlistment service of the United States, and whoever, when
States is at war, shall willfully utter, print, write, or publish a
profane, scurrilous, or abusive language about the form of go
the United States, or the Constitution of the United States,
tary or naval forces of the United States, or the flag of the Un
or the uniform of the Army or Navy of the United States, or a
intended to bring the form of government of the United States,
stitution of the United States, or the military or naval forces of
States, or the flag of the United States, or the uniform of th
Navy of the United States into contempt, scorn, contumely, o
or shall willfully utter, print, write, or publish any language
incite, provoke, or encourage resistance to the United States,
mote the cause of its enemies, or shall willfully display the
foreign enemy, or shall willfully by utterance, writing, print
cation, or language spoken, urge, incite, or advocate any cur
production in this country of any thing or things, product o
necessary or essential to the prosecution of the war in which

verdicts of not guilty, seven of these counts were eliminated, leaving three counts, namely the third, fourth, and seventh counts, in the case.

The seventh count charged that the defendant uttered language intended to incite, provoke, and encourage resistance to the United States and to promote the cause of its enemy, namely, the German Empire. The Government, however, is not convinced that the facts of the case clearly demonstrate a violation of this clause of the law and will make no further contentions concerning the seventh count.

This leaves counts three and four. The third count (R. 29) charges the defendant with having caused and attempted to cause and incited and attempted to incite insubordination, disloyalty, mutiny, and refusal of duty in the military and naval forces of the United States, in that he made the said Canton speech, the words of the speech being set forth in the indictment. It names two members of the audience of draft age, and alleges that numerous others of the same ages were present.

States may be engeged, with intent by such curtailment to cripple or hinder the United States in the prosecution of the war, and whoever shall willfully advocate, teach, defend, or suggest the doing of any of the acts or things in this section enumerated, and whoever shall by word or act support or favor the cause of any country with which the United States is at war or by word or act oppose the cause of the United States therein, shall be punished by a fine of not more than $10,000 or imprisonment for not more than twenty years, or both: *Provided*, That any employee or official of the United States Government who commits any disloyal act or utters any unpatriotic or disloyal language, or who, in an abusive and violent manner criticizes the Army or Navy or the flag of the United States shall be at once dismissed from the service. Any such employee shall be dismissed by the head of the department in which the employee may be engaged, and any such official shall be dismissed by the authority having power to appoint a successor to the dismissed official.

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It alleges that he made these utterances willfully and "with the intent on his part to cause and attempt to cause and incite and attempt to incite insubordination, disloyalty, mutiny, and refusal of duty in the military and naval forces of the United States."

The fourth count (R. 42) charges the defendant with obstructing and attempting to obstruct the recruiting and enlistment service of the United States, in that he made the said speech, the words of which are set forth in the indictment. It names three of the members of the audience between the ages of eighteen and forty-five, and alleges others of those ages as present. It alleges the defendant willfully uttered the words set forth in the indictment, and "with the intent on his part to obstruct and attempt to obstruct the recruiting and enlistment service of the United States."

Defendant's motion to quash the indictment (R. 139) and demurrer (R. 141) were overruled as to all counts involved in these error proceedings.

In explanation of the defendant's references to the Wagenknecht, Ruthenberg, Baker, Kate Richards O'Hare, and Rose Pastor Stokes cases and as bearing on the question of intent, the Government introduced into evidence, and the court, over the objection of the defendant, admitted so much of the records of the Wagenknecht, Ruthenberg, and Baker cases as showed the nature of the charge upon which they had been prosecuted, tried, and convicted, and copies of the indictments, verdicts, and sentences in the

O'Hare and Stokes cases. (R. 226–228, Government Exhibits 9–15.) The cases against Wagenknecht, Ruthenberg, and Baker arose out of speeches made by them at a public meeting, for which they were convicted of aiding, abetting, counseling, and inducing a violation of the selective service act. The case against Mrs. O'Hare arose out of a speech for which she was convicted of willfully obstructing the enlistment service of the United States. Similarly, the case against Mrs. Stokes arose out of a public address for which she was convicted of attempting to cause insubordination and refusal of duty in the military forces of the United States and obstructing the recruiting and enlistment service of the United States. The sentiments expressed by all of said defendants in these cases, especially the Cleveland cases, bore a striking family likeness to the utterances of the defendant in the instant case.

It appeared in evidence that shortly before his Canton address the defendant Debs was asked concerning the truth of the reports that he had repudiated the so-called "St. Louis platform," being the "war program and proclamation" adopted at the emergency convention of the National Socialist Party at St. Louis, Mo., a few days after the declaration of war with Germany (R. 169). The defendant answered (R. 170, 171, 174) that he approved of that report in spirit and substance at the time of its adoption and still approved of it, although he favored a restatement of some of the aims. Two weeks later

he again stated, in regard to this St. Louis platform, when asked whether he repudiated its platform and principles, "I do not, and, if necessary, I will die for those principles" (R. 218). This platform, together with a minority report of those at the St. Louis meeting who disagreed with it, was sent to the members of the socialist locals throughout the country for a referendum vote. (R. 216, Government Exhibit 2.)

At a meeting in Chicago of the State secretaries of the National Socialist Party, called to discuss the question of a repudiation of or change in the St. Louis platform, the defendant Debs was present and said (R. 221):

> A working man has no place in a capitalist's war such as this. The only war in which I have any interest is that of the workers against the capitalists. They may call me a disloyalist and brand me a traitor, but I shall stick to my principles. The master class pretend to wage this war for democracy, but by persecuting us they have branded this pretention a lie. I honestly hope that there may be no one present here to-day that will want to change the party's former attitude toward the war.

As bearing on the question of his intent in making the Canton speech, the court, over the objection of the defendant, admitted a copy of this St. Louis platform in evidence, including both majority and minority report. (R. 216–8, Government Exhibits 1 and 2.) It constitutes a bitter attack on the war

and an appeal to all socialists to oppose and resist the prosecution of the war and all participation in the war. The following passages are typical of both the attitude to the war and the appeal:

> The Socialist Party of the United States in the present grave crisis, solemnly reaffirms its allegiance to the principle of internationalism and working class solidarity the world over, and proclaim its unalterable opposition to the war just declared by the Government of the United States.
>
> Modern wars as a rule have been caused by the commercial and financial rivalry and intrigues of the capitalist interests in the different countries. Whether they have been frankly waged as wars of aggression or have been hypocritically represented as wars of "defense," they have always been made by the classes and fought by the masses. Wars bring wealth and power to the ruling classes, and suffering, death, and demoralization to the workers.
>
> The Socialist Party of the United States is unalterably opposed to the system of exploitation and class rule which is upheld and strengthened by the military power and sham national patriotism. We, therefore, call upon the workers of all countries to refuse support to their Governments in their wars. The wars of the contending national groups of capitalists are not the concern of the workers. The only struggle which would justify the workers in taking up arms is the great struggle of the working class of the world to free

itself from economic exploitation and political oppression, and we particularly warn the workers against the snare and delusion of defensive warfare. As against the false doctrine of national patriotism we uphold the ideal of international working class solidarity. In support of capitalism, we will not willingly give a single life or a single dollar; in support of the struggle of the workers for freedom we pledge our all.

Our entrance into the European war was instigated by the predatory capitalists in the United States who boast of the enormous profit of seven billion dollars from the manufacture and sale of munitions and war supplies and from the exportation of American foodstuffs and other necessaries. They are also deeply interested in the continuance of war and the success of the allied arms through their huge loans to the Governments of the allied powers and through other commercial ties. It is the same interests which strive for imperialistic domination of the Western Hemisphere.

We brand the declaration of war by our Government as a crime against the people of the United States and against the nations of the world.

In harmony with these principles, the Socialist Party emphatically rejects the proposal that in time of war the workers should suspend their struggle for better conditions. On the contrary, the acute situation created by war calls for an even more vigorous prose-

> cution of the class struggle, and we recommend to the workers and pledge ourselves to the following course of action:
>
> 1. Continuous active and public opposition to the war, through demonstrations, mass petitions, and all other means within our power.
>
> 2. Unyielding opposition to all proposed legislation for military or industrial conscription. Should such conscription be forced upon the people, we pledge ourselves to continuous efforts for the repeal of such laws and to the support of all mass movements in opposition to conscription. We pledge ourselves to oppose with all our strength any attempt to raise money for payment of war expense by taxing the necessaries of life by issuing bonds which will put the burden upon future generations. We demand that the capitalist class, which is responsible for the war, pay its cost. Let those who kindled the fire furnish the fuel.

At the conclusion of the Government's evidence, the defendant moved for a directed verdict, which motion was overruled (R. 232). The defendant introduced no evidence. He personally made his own address to the jury, in the course of which he said (R. 239):

> I have been accused of having obstructed the war. I admit it. Gentlemen, I abhor war. I would oppose the war if I stood alone. When I think of a cold, glittering steel bayonet being plunged in the white, quivering flesh of a human being, I recoil with horror.

I have often wondered if I could take the life of my fellow men, even to save my own.

* * *

I have read some history. I know that it is ruling classes that make war upon one another, and not the people. In all of the history of this world the people have never yet declared a war. Not one. I do not believe that really civilized nations would murder one another. I would refuse to kill a human being on my own account. Why should I at the command of anyone else or at the command of any power on earth?

(R. 242:)

You have heard a great deal about the St. Louis platform. I wasn't at the convention when that platform was adopted, but I don't ask to be excused from my responsibility on that account. I voted for its adoption. I believe in its essential principles. There was some of its phrasing that I would have otherwise. I afterwards advocated a restatement. The testimony to the effect that I had refused to repudiate it was true.

At the time that platform was adopted the Nation had just entered upon the war and there were millions of people who were not Socialists who were opposed to the United States being precipitated into that war. Time passed; conditions changed. There were certain new developments and I believed there should be a restatement. I have been asked why I did not favor a repudiation of what was said a year before. For the reason that I

> believed then, as I believe now, that the statement correctly defined the attitude of the Socialist Party toward war. The statement, bear in mind, did not apply to the people of this country alone, but to the people of the world. It said, in effect, to the people, especially to the workers, of all countries, "Quit going to war. Stop murdering one another for the profit and glory of ruling classes. Cultivate the arts of peace. Humanize humanity. Civilize civilization." That is the essential spirit and the appeal of the much-hated, condemned St. Louis platform.

The jury brought in a verdict of guilty on the third, fourth, and seventh counts (R. 154). Motions for a new trial and arrest of judgment were overrruled and the sentence was expressly declared to run concurrently and not cumulatively (R. 155–157). The case is in this court on writ of error.

The numerous assignments of error have been concentrated by the defendant's attorneys into five points, namely:

1. The indictment fails to charge a crime.

2. The admission into evidence of the court records in the Ruthenberg, Stokes, and O'Hare cases.

3. The admission into evidence of the St. Louis platform.

4. The definition of the expressions "military forces" and "recruiting service."

5. The acts charged against the defendant are protected under the first amendment of the Constitution.

The Government will reply to these points in same manner, contending:

1. That the indictment is sufficient;

2. That the said court records were prope admitted into evidence, as bearing upon and relev to the question of the defendant's intent;

3. That the St. Louis platform was properly mitted into evidence for the same reason;

4. (*a*) That the military forces of the Uni States, within the meaning of the said clause of espionage act relating to causing or attempting cause insubordination in the military forces, properly defined by the court in his charge;

The expression "enlistment and recruiting se ice," was too narrowly, rather than too broad defined by the trial court, and consequently not prejudicial to the defendant;

5. That the first amendment of the Constitut is not essentially involved in the case, and conviction and sentence of the defendant do constitute a violation thereof.

ARGUMENT.

I.

The indictment sufficiently charges the crime

The substance of the argument of the defend under this head seems to be that the Canton spee upon which the prosecution was based, was clearly connected on the face of the indictment w the intent which constitutes an essential element the crimes charged. While this point made by defendant is not clear, it seems to involve the prop

tion that something more than the setting out of a full description of the criminal act and an unequivocal allegation of the criminal intent is necessary.

However, it is difficult to conceive what more could be set forth than is contained in this indictment, without pleading evidence. The indictment first charges the offenses in the language of the statute (R. 29, 42), namely, that the defendant did attempt to cause insubordination, etc., in the military forces and did obstruct and attempt to obstruct the recruiting and enlistment service of the United States. It fixes the date of the offense. It describes the offense, namely, the Canton speech, setting it forth in full. It describes the audience as containing men of the designated draft and military ages, giving the names of some of them. It then alleges the unlawful intents in the language of the statute, alleging that "when the defendant uttered, published, and said the aforesaid words, speech, and address to the persons aforesaid he did so willfully and with the intent on his part to cause and attempt to cause and incite and attempt to incite insubordination, disloyalty, mutiny, and refusal of duty in the military and naval forces of the United States"; and, in the fourth count, "with the intent on his part to obstruct and attempt to obstruct the recruiting and enlistment service of the United States." Nothing is left to inference. The intent is completely alleged; anything further would be pleading the evidence of intent. The defendant was apprised by the indictment of the act and intent with which he was charged.

An indictment is sufficient if the language clearly and accurately sets out all the elen necessary to constitute the offence and acquain defendant with reasonable certainty of the ac tion against him.

> *Cannon* v *United States,* 116 U. S. *United States* v *Britton,* 107 U. S. 655.

It is well settled that an indictment for a stat offense which substantially follows the langua the statute and apprises the defendant of the of charged is sufficient:

> *Commonwealth* v. *Bearse,* 108 Mass. followed in *Commonwealth* v. *Hobbs,* 140 443; *1 Wharton's Criminal Procedure,* 308 10th ed.

See also the note in 11 L. R. A. 532 on an in ment for a statutory offense.

The Circuit Court of Appeals for the Eighth cuit held in *McCarty* v. *United States,* 101 Fed. that an indictment based on a statute puni counterfeiting sufficiently charged that the acts done with a criminal intent by alleging that defendant acted "with intent to defraud." Th lowing language is quoted from the opinion:

> * * * The objections to the suffici of the indictment upon its face are few, not of a serious character. It is objected the averment that the defendant did the complained of with "intent to defraud "too general for toleration, and only amo

to pleading a conclusion." The pleader is never required in this class of cases to set out the evidence or facts going to prove the intent to defraud, or the particular means by which the party named in the indictment was to be defrauded. It is never done, and in most cases would be impractical. In the case of *U. S.* v. *Ulrici*, 3 Dill. 532, 535, Fed. Cas. No. 16, 594, this same objection was made to the indictment which charged the act was done "with intent to defraud the United States," and Mr. Justice Miller, in answering the objection, said:

"It is contended that there should be some statement of the evidence of this intent—that some one or more of the facts which manifest this intent should be set out in the indictment; but I suggested to counsel at the time that, if he could show where it was necessary to describe more than what the party intended to do, in a case where intent was the essence of the crime, then this might not be considered a sufficient charge, but I apprehend that no such instance can be produced. But it is said that you must show how he was going to do it. Now, an intent is often very hard to prove, but when you show that it is essential to a civil or crininal proceeding you can demonstrate it in a thousand ways. All human actions are the external evidence of intent. The conduct of a man, in its thousand various forms, goes to discover his inner thoughts; and to say that the indictment should allege these with particularity would be very difficult for the pleader. Are

we to set all the facts out? If not, the limit to be fixed? The objection fore, to this count are overruled, held to be good."

Dr. Wharton, in his valuable work nal Law, says:

"The means of effecting the crimin or the circumstances evincive of th with which the act was done are c to be matters of evidence to the demonstrate the intent, and not nec be incorporated in an indictme Whart. Cr. Law, sec. 292.)

Certain of the counts on which the d was convicted charged that he did complained of with intent to defraud person "and divers other persons to t jurors unknown." * * * where it sary to allege an intent to defraud s it is sufficient, when the fact is so, an intent to defraud "divers person grand jurors unknown."

In *Burton* v. *United States*, 202 U. S. 344 this court said:

It is equally true that the accused formed with reasonable certainty indictment of the nature and caus accusation against him—the two cou inbefore given at large, and upon wh tences were pronounced, being as ful of the others. The averments of th ment were sufficient to enable the d to prepare his defense, and in the

acquittal or conviction the judgment c
have been pleaded in bar of a second pros
tion for the same offense. The accused
not entitled to more, nor could he demand
all the special or particular means emplo
in the commission of the offense should be n
fully set out in the indictment. The w
of the indictment directly and without
biguity disclosed all the elements esse
to the commission of the offense charged,
therefore, within the meaning of the Const
tion and according to the rules of plead
the defendant was informed of the na
and cause of the accusation against
United States v. *Simmons*, 96 U. S. 360,
United States v. *Carll*, 105 U. S. 611; *Blit*
United States, 153 U. S. 308, 315.

In *Doe* v. *United States* the Circuit Court of App
for the Eighth Circuit, in an opinion recently rend
but not yet reported except in Bulletin No.
Department of Justice Interpretation of War Statu
passed upon and upheld the sufficiency of an ind
ment under the same clauses of the Espionage
as those involved at bar. That indictment set
the charge and intent with less particularity than
indictment at bar. The court said:

> The offense charged is purely statut
> and the words of the statute contain all
> ingredients of the offense. The count u
> consideration charges the offense in the
> guage of the statute and this is suffici
> *Potter* v. *United States*, 155 U. S. 438; *Un*

States v. *Gooding*, 12 Wheat. 460; *United States* v. *Britton*, 107 U. S. 655; *Burton* v. *United States*, 202 U. S. 344.

Wharton's Criminal Law, section 292; *Evans* v. *United States*, 153 U. S. 584; *May* v. *United States*, 199 Fed. 42.

We think the count in question clearly apprised the defendant of what he must be prepared to meet and showed with accuracy to what extent he might plead a former acquittal or conviction. *Cochan* v. *United States*, 157 U. S. 286.

II.

Records of cases referred to in defendant's address properly admitted on issue of intent.

The defendant assigns as error the admission into evidence of so much of the records of the Ruthenberg, Wagenknecht, Baker, O'Hare, and Stokes cases as show the nature of the offenses with which those persons were charged and convicted. The defendant claims that there was no proof of defendant's knowledge of the facts of those cases. This is a frivolous claim. The references to these cases in defendant's speech show that he knew all about them and any assumption to the contrary would be contrary to every reasonable inference.

The main contention of the defendant regarding these records is that their admissibility depends upon some proof that the audience would understand his references to these cases. This evidence, however, was not admitted upon any theory that it related to

the question of the effect of the speech upon the audience, but by reason of its relevancy to the question of the defendant's intent. Did he intend, when he made the speech, to cause insubordination, etc., in the military forces of the United States or obstruct its recruiting and enlistment service, that is, was it all or a part of his intent that he influence the men of military age against enlistment and faithful military service? That was an issue before the jury. He referred to these Ruthenberg et al., O'Hare, and Stokes cases at some length, coming back to them with frequency during the address. His was not an expression of regret that these men and women had violated the laws provided for the protection of the Army, but an expression of pride in their acts and of glorification in their violations of law. He held them up as models to be followed by his audience and expressly identified his own purposes and point of view with the acts of these other persons for which they had been convicted. Under these circumstances, the nature of the acts of these men and women, the fact that they had been convicted of inducing violations of the Selective Service Act, or of attempting to cause insubordination in the military forces of the United States or of obstructing the recruiting and enlistment service bore obviously on the defendant's purpose in his speech, and tended to show that he had the same unlawful purpose as those whom he praised so highly and asked others to emulate.

The trial court, in its charge to the jury, carefully limited the application of this evidence to the question of intent, saying (R. 277–278):

> Certain testimony was permitted to go to you as to statements made by the defendant at other times than the occasion charged in in the indictment. More particularly I refer to the testimony of Clyde R. Miller, and the witness from Chicago by the name of Triner. This testimony, I then warned you, and I wish to repeat, was permitted to go to you and is to be weighed by you only in enabling you to find the intent with which the words and language was uttered as charged in the indictment. He is not on trial and is not to be tried for any other offense than that charged in the indictment, namely, that said to have been committed by certain public utterances and language used on the 16th day of June, 1918, at the band stand in Nimisila Park. Language or utterances made by him at any other time or place is not to be weighed by you for the purpose of enabling you to find that he uttered this language charged, or that he committed the offense charged at that time and place; but only if you shall find from the evidence relating thereto beyond a reasonable doubt that he uttered the language, or the substance of it, as charged, at that time and place, and that the natural or reasonably probable tendency and effect thereof would be to produce the results forbidden by the provisions of the law, then, in that event, being required to

pass to a consideration of the specific intent with which he made the utterances, you may, for that purpose alone, weigh and consider the testimony permitted to go to you as to what he said at some other times or places.

I also permitted to be read in evidence the so-called antiwar platform or program of the Socialist Party, and the record and conviction of Ruthenberg, Wagenknecht, and Baker, and of Rose Pastor Stokes, and of Kate Richards O'Hare. This evidence also is to be received and weighed by you under the same limitations and for the same purpose only as I have already stated that I permitted the testimony of Miller and Triner to go to you, and it is to be so weighed and considered.

Particularly do I warn you to bear in mind that the defendant here is not on trial for having uttered any of the words charged to have been uttered by Mrs. O'Hare or by Mrs. Stokes, or for that which is contained in the antiwar program or pronunciamento of the Socialist Party. He is on trial here for what he did in Canton on the 16th day of June, 1918, and these other scraps of evidence are merely to be received and weighed by you for the purpose of enabling you to find what was the intent and state of his mind and purpose with which he made and uttered the remarks or address upon that occasion.

The cases cited by the defendant in this subdivision of his brief all relate to the question of the admissibility, in a prosecution for one crime, of evidence of other crimes committed by a defendant; a question not involved in the case at bar.

III.

St. Louis platform clearly admissible in evidence on question of intent.

The St. Louis platform represented the decision of the governing board of the National Socialist Party to oppose the war to the bitter end or any participation of its members in war service. On a referendum vote of the members of the party the defendant had voted in favor of this platform. Both before and after his Canton speech he expressed approval of the spirit and substance of that platform and he opposed the repudiating of that platform when the question of that repudiation was under discussion at a conference of State secretaries of the party. The basic principle and appeal set forth in that platform completely corresponded to the basic theme and appeal of the defendant's speech, namely, the capitalist class is the real enemy of the working class; the war is for the benefit of the capitalist class; the duty of a member of the working class is to stick by his class and resist participation in the war. The St. Louis platform and defendant's approval of it were obviously relevant to the question of whether, when he made his speech at Canton, the defendant had an intent to influence his hearers against loyal military service. When a man makes a public address to workingmen, which is of a nature to discourage military service, the fact of his approval of a platform of his party calling upon all workingmen to refuse and resist war service, has an obvious relevancy to the

question whether he had the purpose of influencing his audience against loyal and faithful military service.

As seen in the passage above quoted from the court's charge, the jury was carefully warned that this evidence was to be considered only upon the issue of the defendant's intent, and, at the time of the introduction of the St. Louis platform and the defendant's utterances concerning it, the court stated to the jury (R. 169–170):

> Statements made by Mr. Debs other than the specific statements charged against him in the indictment as an offense will be received by you, gentlemen of the jury, for the purpose of determining whether or not he did make or utter the words charged against him in the indictment. An element of the offense charged in the indictment, however, is the specific intent with which the words and utterances were made and acts done as charged in the indictment. Now, this testimony which is now being offered as to statements made by Mr. Debs other than those specified in the indictment is to be received, and will be received and weighed only for the purpose of enabling you to find and determine the intent with which the words and utterances were made as charged in the indictment, in the event you should ultimately find that he did make and utter the words charged in the indictment.

The evidence falls within the recognized principle that where the issue of intent is involved, and intent

must be shown as an element of the offense, evidence may be admitted of other acts or utterances of the defendant's bearing on his attitude of mind or the subject matter of the acts or utterances with which he is charged.

It is, for instance, well settled that in cases where the intent to deceive or defraud is an essential element of the offense other fraudulent acts of the defendant may be shown.

See *Bottomley* v. *U. S.*, 1 Story, 135, where the court held that where a party is charged with fraud in a particular transaction evidence may be offered of similar previous fraudulent transactions between him and third persons; and wherever the intent or guilty knowledge of a party is material to the issue of the case, collateral facts tending to establish such intent or knowledge, are proper evidence. Judge Story in this case at pages 142–145, in an oft-quoted statement says:

> The objection taken to all these three last portions of the evidence excepted to, is, that it is res inter alios acta, and upon other occasions; and therefore, not properly admissible to establish a fraud in the case of the importation of the goods now before the court. But it appears to me clearly admissible upon the general doctrine of evidence in cases of conspiracy and fraud, where other acts in furtherance of the same general fraudulent design is admissible; first, to establish the fact, that there is such a conspiracy and fraud; and, secondly, to repel the suggestion

that the acts might be fairly attributed to accident, mistake, or innocent rashness, or negligence. In most cases of conspiracy and fraud, the question of intent, or purpose or design in the act done, whether innocent or illegal, whether honest or fraudulent, rarely admits of direct and positive proof; but it is to be deduced from various circumstances of more or less stringency, and often occurring, not merely between the same parties, but between the party charged with the conspiracy or fraud and third persons. And in all cases where the guilt of the party depends upon the intent, purpose, or design, with which the act is done, or upon his guilty knowledge thereof, I understand it to be a general rule, that collateral facts may be examined into, in which he bore a part, for the purpose of establishing such guilty intent, design, purpose, or knowledge. Thus, in a prosecution for uttering a bank note, or a bill of exchange, or promissory note, with knowledge of its being forged, proof, that the prisoner had uttered other forged notes or bills, whether of the same or of a different kind, or that he had other forged notes or bills in his possession, is clearly admissible as showing, that he knew the note or bill in question to be forged. So the law is laid down in Mr. Phillips and Mr. Amos's excellent Treatise on Evidence, in the last edition. The same doctrine is applied in the same work to a prosecution for uttering counterfeit money, where the fact of having in his possession other counterfeit money, or having

> uttered other counterfeit money, is pr
> proof against the prisoner to show his gu
> knowledge. I have looked into the autl
> ties; and they fully support the staten
> of the learned writers.

After citing certain leading cases, Judge S concludes:

> In short, wherever the intent or gu
> knowledge of a party is a material ingred
> in the issue of a case, these collateral fa
> tending to establish such intent or knowle
> are proper evidence. In many cases of fr
> it would be otherwise impossible satisfacto
> to establish the true nature and characte
> the act.
>
> *1 Greenleaf on Evidence*, 15th Ed. 88.

Among the decisions of this court recogni this principle in cases involving fradulent int are:

> *Castle* v. *Bullard*, 64 U. S. 172.
> *Butler* v. *Watkins*, 80 U. S. 456.
> *N. Y. Mutual Life Ins. Co.* v. *Armstr*
> 117 U. S. 591.
> *U. S.* v. *Wood*, 41 U. S. 341.
> *Buckley* v. *U. S.*, 45 U. S. 250.
> *Allis* v. *U. S.*, 155 U. S. 117.
> *Schultz* v. *U. S.*, 200 ~~U. S.~~ Fed. 234.

More nearly related to the instant case are those thorities which hold that, on the question of malic actions for libel, evidence of other utterances the defendant, tending to show his attitude tow the person libelled, is admissible.

In *Eldridge* v. *State*, 27 Florida 162, the Court at page 450 says:

> To the introduction of this article in evidence defendant objected on the ground that it was printed after the finding of the indictment, and because the same is not libelous, and does not refer to the same subject matter as the article set forth in the indictment, and because the same is irrelevant and immaterial. This objection was overruled and the said article was read to the jury. Permitting this article to be read to the jury is the first error assigned. The authorities referred to by counsel for defendant do not, in our opinion, sustain the objection here made. This is a criminal prosecution for maliciously publishing a libel. The rule announced in the case of *Com.* v. *Damon*, 136 Mass. 441, we think, is correct. The conclusion of the court in that case on this point is stated in the following language:
>
> "We think that in criminal prosecutions for libel the reasonable doctrine is that some connection must be shown between the publication complained of and the publications admitted in evidence to prove actual malice; but if these tend to show ill will towards the person concerning whom the publication complained of is made, and are of such a nature as to indicate a persistent disposition of hatred or ill will towards him, or if they appear to be a part of a settled purpose to bring him into public hatred, contempt, or ridicule, and are sufficiently near in time to

afford a natural inference that the same
of mind existed when the publication
plained of was made, they are admis
although they are subsequent to the p
cation complained of, and do not expr
refer to it."

The article here objected to was publ
seven days after the publication of the al
libelous article, and the former refe
direct terms to the same subject matte
persons mentioned in the latter. We t
these publications are so related to each
in time and subject matter as to mal
proper to admit the second in evidenc
the question of malice, and the court
mitted no error in this respect. W
Crim. Ev., sec. 52; 3 Greenl. Ev., sec.
Williams v. *Miner*, 18 Conn. 464; *Sta*
Riggs, 39 Conn. 498; *Kennedy* v. *Giffor*
Wend. 296; *Robbins* v. *Fletcher*, 101 M
115; *Com* v. *Damon*, 136 Mass. 441.

1 Wharton Criminal Evidence, 10th Ed.
State v. *Riggs*, 39 Conn. 398, 503.

Still more closely related to the present case
those involving seditious libels and seditious ac
ties, and the decisions in those cases upholding
admissibility of other acts or utterances of the
fendant's therein completely dispose of the con
tions of the defendant at bar.

In *Bottomley* v. *U. S.*, 1 Story 135, cited su
while discussing the leading authorities for
principle which the court was then upholding, c

Rex v. *Hunt*, 3 Barn. & Ald., 566 as the authority for the proposition:

> So, in an indictment for a conspiracy to create public discontent and disaffection, proof is admissible against the prisoner, that at another meeting held for an object professedly similar, and of which the prisoner was chairman, resolutions were passed of a character to create such discontent and disaffection.

This case of *Rex* v. *Hunt* holds that "upon an indictment against X and other for unlawfully meeting together for seditious purposes, X having presided at this meeting, resolutions passed at a former meeting assembled a short time before in a distant place and at which X had also presided and the avowed object of which meeting was that of the meeting mentioned in the indictment, were admissible in evidence to show the intents of X in assembling and attending the meeting in question." The court at page 572–573 says:

> The second point of objection is, to the admission of the resolutions of the *Smithfield* meeting. The objection here is twofold: First that the best evidence was not produced; and secondly, that no evidence of them was admissible. Now the paper produced was proved to have been received from the hands of one of the present defendants at the time and place of passing the resolutions, as containing the very resolutions then actually in progress, and then in the act of being passed

by or proposed to the persons ass
and as against the party to whom th
applied, the paper produced was as
not better evidence than any other cou
been. On the second part of the ob
it is to be observed, that these resolutio
proposed at a large assembly, very r
held for some alleged purpose of parlian
reform, which was the avowed purpose
meeting at *Manchester*, at which p
assembly, one of the defendants had pr
and put the question (if, indeed, any q
can be deemed to be effectively propo
on such an occasion) which defend
stranger in point of residence or othe
political connection with *Manchester*
vicinity, was announced as the invited
man, and actually became the chairm
the meeting in question. Under suc
stances, upon the question of intent
have no doubt that it was competen
show, as against that individual, that
similar meeting, held for an object profe
similar, such matters had passed unde
immediate auspices. I have no doubt
competency of such evidence; its effec
for the consideration of the jury, and
properly left to them. It was in its n
a declaration, by that defendant, of hi
sentiments and views, with reference to
is called parliamentary reform, and t
assembling of large numbers of perso
hear speeches and resolutions under
pretext.

1 Wharton Criminal Evidence, 10th Ed., p

The whole subject of the admissibility of other acts or utterances of the defendant on the question of the intent with which he committed the act or utterance with which he is charged in the case on trial, is ably discussed in—

> *1 Wigmore on Evidence*, 304, 390–391, 414–415, 490–492.

On page 304 this learned author says, by way of general introduction:

> Of the three modes of evidencing a state of mind, * * * (1) Conduct or behavior (including language not used assertively) illustrates and points back to the state of mind producing it; and the state of mind which is variously termed knowledge, belief, or consciousness shows itself in the conduct of its bearer. (2) External circumstances, calculated by their presence or occurrence to bring about the state of mind in question, are also available to show the probability that consciousness, knowledge, or belief, subsequently ensued. (3) A prior or a subsequent state of mind indicates, within certain limits, its existence at the time in question.

He then proceeds to discuss the admissibility of various types of acts, declarations, or facts bearing upon knowledge, belief, consciousness, or intent, as indicative of the state of mind of the defendant and the various classes of cases in which similar acts of the defendant are admissible in evidence to prove

intent. On page 490-492, discussing the proof of malice in defamation cases, the author proceeds:

> The probative value of other utterances as showing malice at the time charged rests on a double argument; (*a*) that the other utterance indicates malice at that time of utterance; and (*b*) that malice then indicates malice at the time charged.
>
> (*a*) That the other utterance may indicate malice at that time is clear, on the general principle that all conduct, including language, is one of the legitimate sources of inference to the feeling that inspires it.
>
> (*b*) The second branch of the inference, that malice *then* indicates malice *at the time charged*, is merely another and legitimate application of the general principle, already dealt with. There can be and is no question as to the propriety of the argument. * * *
>
> (1) The *length of time* elapsing between the evidential utterance and that charged may of course affect the strength of the inference. The English courts treat the lapse of time as never affecting the admissibility of the utterances; but in this country a few courts have sought to put some rational limitation to it. The matter ought to be left entirely in the hands of the trial court.
>
> (2) That the evidential utterances occurred *subsequent* to that charged, and, in particular, after action or trial begun, is equally immaterial, from the point of view of probative value; but a limitation is here suggested by the ensuing considerations of the auxiliary policy.

> Thus the limitations that result from the point of view of relevancy are merely: That (perhaps) an unproved and unwithdrawn plea of truth is not receivable; that (in this country) the subject of the other utterances must be the same; and that (in this country, perhaps) the evidential utterance must not be too remote in time.

As for the old Circuit Court case of *United States* v. *Crandall*, cited on page 58 of the defendant's brief, and the only citation in favor of his contentions, there appears to be some uncertainty concerning the decision of the court, for in *6 Fed. Cas.* as case No. 3350 appears the following:

> CRANDELL'S TRIAL.
>
> CRIMINAL LIBEL—EVIDENCE.
>
> On an indictment for a seditious libel, in order to show the defendant's intent the prosecution may give in evidence any libellous papers subsequently published by the defendant or found, unpublished, in his possession.
>
> (See *U. S.* v. *Crandell*, case No. 14885.)
>
> (Nowhere reported; opinion not now accessible. The above statement of the point determined was taken from Brightley's Dig. 232.)

With the reported cases in both this country and England holding with Crandall's case as that case is described in 6 Fed. Cas. and against Crandall's case as described in 25 Fed. Cas., that unreported and very uncertain case could hardly be considered as strong authority for the defendant. Even if it held

as claimed in defendant's brief, it would not support his contentions, for the St. Louis platform was adopted previous to the passage of the Selective-Service and Espionage Acts and the defendant did not, so far as appears, write or publish it.

IV.

The trial court's definitions of "military forces" and "enlistment and recruiting service" were too narrow, rather than too broad, and therefore not prejudicial to the defendant.

(a) "MILITARY FORCES."—The defendant complains of the meaning which the trial court gave in its rulings and instructions to the expression "military forces of the United States." The court's definition of that phrase is embodied in the following passage from the charge to the jury (R. 268):

> The military forces of the United States as defined in this provision of the act and of the law, I say to you, are not limited to those actually enlisted and enrolled in the active, organized military forces. The act of May 18, 1917, providing for the creation of an active army for the purpose of carrying on this war required that all male persons between the ages of twenty-one and thirty, both inclusive, to enroll or register for military service, and it is from the men thus registered, excluding aliens who had not declared an intention to become citizens, that contingents of men are, from time to time, called into the active military forces of the United States. For the purposes of this act, and of this offense, I say to you that all such persons thus registered and enrolled, and thus subject from time to

> time to be called into the active service, are a part of the military forces of the United States, and a causing or attempting to cause, or inciting or attempting to incite disloyalty, insubordination, mutiny, or refusal of duty among them, or any of them, will be sufficient to constitute the crime charged under this count of the indictment.

The history of the statutes in the United States relating to military service, beginning with the statute of 1792 and going down through the Selective Service Act itself, shows that in the evolution of the Federal military policy, male citizens and declarant aliens of the ages designated in the statutes (eighteen to forty-five) came to be treated as constituting the national or military forces of the United States, subject to call into active duty whenever the emergency might require, and in the Espionage Act, the expression "military forces of the United States" was intended to have that significance. Furthermore, while the principle of strict construction of penal statutes applies here as elsewhere, in questions of statutory interpretation, it is the intention of Congress which is always the object of the inquiry; and, in considering the meaning of any part of the Espionage Act, the tremendous emergency for which Congress was legislating should be kept in mind. That act was pending contemporaneously with the Selective Service Act itself, and it was passed a few weeks after Congress had determined upon the raising of great new armies under that act. The evident design of

this section 3 of the Espionage Act was to protec from deliberate obstruction and interference th whole process of raising these great armies. In viev of this statutory history and situation, it may b fairly determined, that in the use of the expressio "military forces of the United States," Congres intended to cover the whole body of persons consti tuting the national forces, including those in activ service, those in any state of the process of inductio into service, and those in reserve. This expressio has come for construction before practically ever district court in the United States, and with bu three or four exceptions, they have given it th broader rather than the excessively narrow interpre tation for which the defendant contends.

HISTORICAL REVIEW OF STATUTES RELATING TO MILI-TARY FORCES AND SERVICE.

The statutory history of our military policy has recently been discussed in considerable detail on pages 16–27 of the Government's brief in the case of *Abraham L. Sugarman, plaintiff in error,* v. *United States of America,* No. 345 of this court, and the court is hereby respectfully referred to the said discussion, as well as to the résumé of this history contained in the *Selective Draft Law cases,* 245 U. S. 366, 384. We will here content ourselves with a summary of that discussion and the conclusions to be drawn therefrom.

From the beginning of that history, represented by "An act more effectively to provide for the national

defense by establishing an uniform militia throughout the United States" (act of May 8, 1792, c. 33, 1 Stat. 271), down to the Civil War Act of March 3, 1863, the military forces of the Nation consisted of the mixed State and Federal militia system and volunteers; the said Civil War statute being the first national draft law. Amongst the decisions interpreting the early militia statutes is *Tyler* v. *Pomeroy*, 8 Allen (Mass.), 480, 493, where the court said:

> Under this power to organize (the militia) Congress has the exclusive power of determining who shall constitute the militia, and all persons coming within the class defined by Congress are members of the militia *without any act of their own.*

This is an early recognition of the principle that a man becomes a member of the military forces by virtue of the statute itself and may be treated as a deserter subject to court-martial, though he fails to report for service and fails to take any steps himself toward induction into service.

See also, to the same effect:

Opinion of Justices, 14 Gray, 614.
McCall's Case, Federal Cases, No. 8669.
Kneedler v. *Lane*, 45 Pa. St., 238.
Houston v. *Moore*, 5 Wheaton, 1.
Martin v. *Mott*, 12 Wheaton, 19.

This principle has received uninterrupted judicial sanction, including cases arising under the Selective Service Act itself.

The Civil War draft law (act of Mar. 3, 1863, c. 75 12 Stat., 731) provided in the first section thereof:

> That all able-bodied male citizens of the United States and persons of foreign birth who shall have declared on oath their intention to become citizens under and in pursuance of the laws thereof, between the ages of twenty and forty-five years,—are hereby declared to constitute the *national forces* and shall be *liable* to perform military duty in the *service* of the United States when called out by the President for that purpose.

Section 3 provided:

> The *national forces of the United States* not now in the military service, enrolled under that act, shall be divided into two classes, the first of which shall comprise all persons subject to do military duty between the ages of 20 and 35 years, and all unmarried persons subject to military duty above the age of 35 and under the age of 45; the second class shall comprise all other persons subject to do military duty, and they shall not, in any district, be called into the *service* of the United States until those of the first class shall have been called.

Section 13 provides:

> And any person failing to report after due service of notice (to report for duty) * * * shall be deemed a deserter * * * and sent to the nearest military post for trial by court martial.

This statute is significant. It marked a radical change in the Federal military policy. The first matter of note in its language is that it converts into the military forces not, as in the case of the old militia statutes, the "citizens of the States," but the "citizens of the United States" of the designated classes and ages. It also includes declarant aliens. It further makes a clear distinction between "forces" and "service." All citizens and declarant aliens of the designated classes and ages are declared to constitute the "national forces," which are then divided into two subdivisions, those in the service and those not yet inducted. This creation of a "national force," consisting of male citizens of the United States and declarant aliens of certain ages, from which drafts into the Federal service may be made from time to time as the emergency may require and the President or Congress may direct, has been continued and recognized ever since this statute of 1863 down to the present, including the Selective Service Act and its supplements.

The act of March 3, 1863, like the later Selective Service Act, provided a draft process beginning with registration of all persons of draft ages, said registration being, in the earlier statute, called "enrollment." In *United States* v. *Scott*, 70 U. S. 642, in which the scope of "enrollment" in that statute was in question, this court, speaking through Mr. Justice Miller, said at page 646:

> It is to be observed, however, that this construction of the word enrollment must depend

entirely upon the statute for its support, there is nothing in the derivation of the wo or in its ordinary use, which would just such a meaning. It may be defined to be act of inserting in a list or roll; and in re ence to the purpose of calling the able-bod men of the country into its service, its us meaning is fully satisfied when the names the persons liable to such service are pla on a roll or register. We accordingly find t the first duty imposed by the act on t board of enrollment is to ascertain who th persons are, and place their names on a re ter. This catalogue is properly called the r and the completion of it, the enrollment the *military force* of the country.

The next general military statute was passed the Spanish-American War, being the act of April 1898 (30 Stat. at Large 361), the first section p viding:

> All able-bodied male citizens of the Uni States and persons of foreign birth who sh have declared their intention to become c zens of the United States * * * betwe the ages of 18 and 45, are *hereby declared constitute the national* forces and, with su exceptions and under such conditions as m be prescribed by law, shall be liable to p form military *duty* in the *service* of the Uni States.

The only change made by this statute was t extension of the age limits to include all over It maintains the creation of "national forces" a the distinction between "forces" and "servic

This statute has never been repealed. It is still the law and makes every citizen of the United States and declarant alien of the designated ages and classes a member of the "national forces of the United States."

On June 3, 1916, in the face of an impending emergency which might require a largely increased and reorganized Army, Congress passed the National Defense Act (39 Stat., c. 134, 197). This statute provided for an enlarged and reorganized Army consisting of the Regular Army and militia, and section 57 provides for a "Militia of the United States" which shall include the National Guard, the Naval Militia, and the *Unorganized Militia*.

The statute then proceeds to deal with the organization of the National Guard and National Guard Reserve, obviously constituting the successors of the old State Militia, under a mixed State and Federal control. It is to be noted, however, that it provides for the draft of the individual members of the National Guard into the Federal forces, and section 57 itself speaks of the "Militia of the United States." The statute contains no further reference to the Unorganized Militia, which remains, therefore, obviously in the light of the statute of 1863 and the unrepealed statute of 1898, simply that portion of the "national forces" which has not been inducted into the organized Regular Army or National Guard.

The court's attention is also particularly called to the use of the expression "armed land forces" in section one hundred and eleven of the National Defense

Act, which provides for Federal draft of the Na
Guard "when Congress shall have authorized t
of the *armed* land *forces* of the United States f
purpose requiring the use of troops in excess o
of the Regular Army;" showing a distinction
mind of Congress between that portion of the n
forces which has been armed and is in servi
that which is in reserve but subject to call.

The Selective Service Act (act of May 18,
40 Stat. 76), makes no change in this situatio
provides for bringing the Regular Army and Na
Guard up to their maximum strength, for
volunteer bodies, and for the drafting into n
tional armies of that portion of the remainder
national forces falling between the ages of 21 a
Later in the war, provision was made for the d
of the rest of the national forces falling betwe
ages of 18 and 45.

It is to be noted in this connection, that the p
of selecting men for active service provided
Selective Service Act is a process of exclusion a
of inclusion. All of the designated classes an
are liable to active service unless exempt
provided in the statute. Taken in connectio
the unrepealed act of 1898 and the National D
Act, the draft sections of the Selective Servic
simply provide the call into service of a portion
existing "national forces."

In fact the draft process as provided by the
tive Service Regulations is one of classifi
rather than exemption; the registrant not se

for immediate active service being retained on the classified lists subject to later call by the draft authorities for such service as the exigencies of the situation might require. A striking instance of this aspect of the draft process is the so-called "work or fight" order, being the regulation promulgated by the President on May 23, 1918 (Selective Service Regulations, sections 121–A to 121–L and 318–322), by virtue of which all men of draft age who, after a designated date, continue in what are defined as nonproductive occupations or employments are ordered inducted into active military service.

The decisions under the Selective Service Act, as under the draft acts of 1863 and 1898, clearly uphold the jurisdiction of courts-martial to try and punish as deserters men who fail to respond for service when called into service by the draft boards. The Selective Service Regulations promulgated by the President in pursuance of the Selective Service Act provide that, without any act of enrollment or other action on his part, a registrant who fails to respond to certain orders of his draft board automatically becomes a deserter subject to court martial (Selective Service Regulations, sec. 140). In other words, these regulations place the registrant in a military status subject to court-martial without any act of his own; and this has been upheld by the courts. The question was fully discussed in *Franke* v. *Murray*, 248 Fed. 865, a decision of the Circuit Court of Appeals, Eighth Circuit, the court deciding squarely against the contention of a registrant, who had failed to

respond to the call for service, that as he had not entered the military service he must be treated as a civilian and not subject to the military tribunal.

The history and development of the Federal statutes upon compulsory military service clearly demonstrate, therefore, that the "national forces" include the whole body of able-bodied males, both citizens and declarant aliens, of the ages of 18 to 45 years. The Selective Service Act designated the portion of these forces between the ages of 21 and 31 as immediately subject to the call into service. Section 3, Title I, of the Espionage Act, passed at about the same time, was designed to protect the process calling them into the service. A distinction in this regard between "military forces" and "national forces" would be untenable. Our national forces in the sense of all those who contribute to the national strength, financial and industrial as well as military, could not be limited to persons under 45; so where national forces are referred to as the males of certain limited ages, especially in statutes dealing exclusively with the subject of armies, "national forces" and "military forces of the United States" may be considered synonymous expressions.

Interpretation contended for by defendant would render a portion of the section superfluous and without effect.

This interpretation also finds support in the provisions of the clause of the Espionage Act itself involved in this case. This clause provides for the punish-

ment of persons who "cause insubordination, disloyalty, mutiny, or refusal of duty in the military forces of the United States." Insubordination, disloyalty, mutiny, or refusal of duty on the part of a soldier in the service is and, of course, always has been a violation of the Articles of War. Article 22 prohibits mutiny or sedition. Article 47 prohibits desertion and provides for the punishment thereof. Article 62 covers all crimes not capital and all disorders and neglects which officers and soldiers may be guilty of to the prejudice of good order and military discipline, though not mentioned in other articles. Consequently section 332 of the Penal Code provided for the punishment of any person guilty of causing one in the military service to commit any such offense. Therefore no statute was needed at the time of the passage of the Espionage Act to reach those who caused insubordination, etc., on the part of men in military service. On the principle, therefore, that no portion of a statute should be given an interpretation which would render it an absolutely superfluous and unnecessary piece of legislation, some significance and effect should, if possible, be sought in the language used by Congress. The clause is a blanket clause, intended to cover all attempts, successful or unsuccessful, to cause unlawful disobedience to the constituted authorities on the part of men either already in the military service or subject to call into that service.

DECISIONS OF THE COURTS.

As above stated, the question has been passed upon by almost all district courts and with an overwhelming preponderance in favor of the decisions of the trial court in this case. Two of these decisions are reported, namely, *U. S.* v. *Hall*, 248 Fed. 150, which supports the defendant and *U. S.* v. *Boutin*, 251 Fed. 313, which supports the Government. Most of these decisions being contained in the charges to the jury have not found their way into the Federal Reporter. The Department of Justice has printed in a series entitled "Interpretation of War Statutes" a number of bulletins containing decisions of the courts on the war statutes. Many of these were cited in the Government's brief in the Sugarman case, No. 345 of this court, to which reference is hereby made.

A typical expression of the larger reasons for the more broad interpretation is the following quotation from the charge to the jury in *United States* v. *Huhn* in the District Court of Wyoming, Bulletin No. 58:

> Considering the broad purposes of the Selective Draft Act, and considering the evils that were intended to be met by the statute under which this indictment was drawn, you are instructed that the words "military forces" as therein used are to be given a broad, rather than a narrow meaning, and held to mean not merely the men in active military service, but also the men who had registered as required by law.

The following quotation from the charge to the jury in *U. S.* v. *Stokes*, Bulletin 106, illustrates the reasons in support of the prevailing and, as we contend, the correct view:

> Discussing then the nature of the publication and its adaptability to the accomplishment of the purpose charged, it is proper first to define to you what is meant by the military or naval forces of the United States. In the first place, they include all in active service, either in training at military or naval camps or within the body of the Army and Navy in actual service after the period of training has been completed. In the next place, by act of Congress, still in force, all able-bodied male citizens of the United States, and persons of foreign birth who shall have declared their intention to become citizens of the United States, under and in pursuance of the laws thereof, between the ages of 18 and 45 years, are declared to constitute the national forces, and, with such exceptions and under such conditions as may be provided by law, shall be liable to perform military duty in the service of the United States. Third, by the Selective Service Act of May 18, 1917, the President was authorized to increase temporarily and for the purposes of this war the Military Establishment of the United States. All male persons between the ages of 21 and 30, inclusive, were required to register on the 5th day of June, 1917. They did so to the number approximately of ten millions. All were given a serial number, and subsequently

> thereto and from time to time have been, are being, and will be drawn and placed in active service according to their classes and physical ability and as necessity may arise. All such male persons so registered and having received their serial number subjecting them to call are a part of the military and naval forces of the United States. It will thus be seen that such military and naval forces consist of those already at the front, in training camps preparatory thereof, and among the body of the people subject to call and enlistment for military and naval service.

A similar charge to the jury, though perhaps not applicable to the facts of the case, was upheld by the Circuit Court of Appeals, Third Circuit, in *United States* v. *Krafft*, 249 Fed. 919.

The defendant was found guilty of attempting to cause insubordination, etc., in the military forces. Let us assume, for a moment, that the phrase refers exclusively to men in active service. Some of Debs's audience were likely to be in active service at an early date. The defendant was trying to induce them to be disloyal and insubordinate when their turn for faithful military service might come. As said by the Circuit Court of Appeals for the Third Circuit in *U. S.* v. *Krafft*, 249 Fed. 919 at 924:

> Both "willfully causing" and "willfully attempting to cause" are by the statute made alike criminal; and, such being the case, the attempt to cause being forbidden, as well as the causing, there is no ground to construe or apply this statute on theory that insubordination, mutiny, or disloyalty must be effected.

> To so hold would be to defeat the whole purpose of the statute. For the purpose of the statute as a whole was not to wait and see if the seed of insubordination—in this case sown in August in Newark—a later date in some camps sprang into life and brought forth fruit, but it was to prevent the seed from being sown initially. Moreover, it is clear that this new statute was to enable the civil courts to prevent the sowing of the seeds of disloyalty, for with the fruits of disloyalty, to which a misguided soldier might be led by the disloyal advice, the military court-martial already provided was sufficient. The statute was not addressed to the misguided man who was in the service, but was manifestly to include any one—for "whoever" is a broad inclusive word—who in any way willfully created or attempted to cause insubordination. Clearly the court below was right in holding that if in fact the defendant used the language alleged, and if his purpose was willful to cause insubordination, then the statute was violated. Clearly it was right in holding that, to constitute the crime at the start, it was not necessary for that willful purpose to succeed.

(b) "RECRUITING AND ENLISTMENT SERVICE."—The trial court's conception of the meaning of the phrase "recruiting and enlistment service" is contained in the following portion of its charge to the jury (R. 270):

> * * * The recruiting or enlistment service of the United States is designed to enroll in the Army or Navy persons only who come

forward voluntarily to enlist and to en
themselves. To be sure, arguments, indu
ments, and persuasions may be and usually
resorted to to effect that result; but whet
or not anyone enrolls or enlists, or, in ot
words, volunteers for this service, depe
upon the state of the mind of the individu
All male persons between the ages of eight
and forty-five, both inclusive, who are citiz
of the United States, or who have decla
their intentions to become citizens of t
United States, and are not subjects of the
tions with which we are at war, are and w
then eligible for enrollment in the enlistm
or recruiting service.

In weighing and scrutinizing the eviden
therefore, both in finding whether or not the e
dence shows beyond a reasonable doubt th
the defendant wilfully obstructed or attempt
to obstruct the recruiting or enlistment servi
and in also finding from the evidence wheth
or not he had a specific criminal intent, eith
to obstruct or attempt to obstruct, it is prop
that you should bear in mind this ment
attitute toward the military or naval servi
of the individuals of that class of our popul
tion from which persons must be recruited
enlisted. And it is also proper for you to be
in mind how this attitude or disposition
mind of such individuals is or may be affecte
by the attitude of their friends, companion
and relatives. And it is also important, i
passing upon this, that you should bear i
mind the natural and reasonably probabl
effect of such public words or utterances a

you may find the defendant to have used, upon this attitude of mind on the part of the persons from whom recruits are obtained.

The defendant did not except to that portion of the charge and his complaint relates rather to the basic merits of the case under the fourth count than to any particular ruling of the court. He seems to argue that, to fall within the statute, the obstruction of the recruiting and enlistment service must be directed upon or against an officer engaged in this recruiting or enlistment service. Plainly, however, the obstruction can operate, and more effectively operate, upon the military eligible himself, who is the object of the activities of the recruiting and enlistment service. If, for instance, a defendant knowing that a certain young man of military age is about to attend a recruiting meeting and fearing that this young man might be influenced to enlist, deliberately, for the purpose of preventing this enlistment, locks the young man in a room, no one certainly would claim that this was not an obstruction of the recruiting service even though the defendant did not touch or approach a recruiting officer. Similarly, an attempt to keep the same young man from enlistment by influence rather than violence would have the same purpose and evil effect. The enlistment of young men of military age in the Army being the object of the activities of the recruiting and enlistment service, obstruction of that service can be as effectively, indeed more effectively, pro-

duced by actions or utterances directed at the
tary eligible than at the recruiting officer.

The Government contends that the court gav
narrow an interpretation of the phrase under
cussion, and that the significance of "recruiting
enlistment service," as intended in the Espio
Act, is the whole process of raising an army, bot
volunteer enrollment and by draft. "Enlistm
is practically synonymous with "enrollment,"
the enlisted men are all those whose names are
the rolls of the Army, whether their original in
tion was by virtue of volunteering or draft.

The New Standard English Dictionary gives
following definition of "recruiting":

> Enlisting men for military or naval se
> in; supply with recruits; as, to recruit
> army. To gain or raise new supplies of
> thing lacking or needed, especially of
> soldiers for an army.

Black's Law Dictionary under "enlistment" say

> The words "enlist" and "enlistment,"
> law as in common usage may signify either
> complete fact of entering into the mili
> service or the first step taken by the rec
> towards that end. When used in the for
> sense as in statutes conferring a right o
> pelling the military service of enlisted m
> the enlistment is not deemed comple
> until the man has been mustered into
> service.
>
> Enlisted applies to a drafted man as wel
> a volunteer, whose name is duly entered
> the military rolls.

Similarly Bouvier's Law Dictionary:

> The act of making a contract to serve the Government in a subordinate capacity, either in the Army or Navy. The contract so made is also called an enlistment. A drafted man is said to be "enlisted" as well as a volunteer, but the term does not apply to one entering the Army under a commission.

The Selective Service law itself (act of May 18, 1917, c. 15, 40 Stat. 76), as well as other recent war statutes, show the meaning of the term "enlistment service" to include both the volunteer and draft service. In the Selective Service law a man, other than an officer, enrolled in the Army through the process of registration and selective draft under that law, is usually referred to as an "enlisted" man. Thus section 1 provides, first, for an increase of the Regular Army; second, for draft of members of the National Guard; and third, as follows:

> To raise by draft as herein provided, organize and equip additional force of five hundred thousand *enlisted* men.

References to enlisted men as part of the draft Army in other sections of the Selective Service law are equally unmistakable. The third paragraph of section 1 contains the following sentence:

> The machine-gun companies organized under this section shall consist of such commissioned and *enlisted* personnel and be equipped in such manner as the President may prescribe * * *

The sixth paragraph provides:

> * * * Such organizations shall be o
> in the manner provided in the third par
> of this section, and *enlisted men* n
> assigned to said organizations from
> the forces herein provided for or rai
> selective draft as by this act provided.

The seventh paragraph provides for volunt
listment of not to exceed four Infantry divisio

Section 10 provides:

> That all officers and enlisted men
> forces herein provided for other than the
> lar Army shall be in all respects on the
> footing as to pay, allowances, pensions
> cers and enlisted men of corresponding
> and length of service in the Regular
> * * *

Section 12 provides:

> That the President * * * is auth
> to make such regulations governing the
> bition of alcoholic liquors in or near m
> camps and to the officers and enlisted n
> the Army * * *

The act of October 6, 1917, c. 81, 40 Stat. 384
vides:

> The Secretary of War is hereby auth
> to permit * * * any officer or *e*
> man on the active list of the Army, *
> to make allotments of his pay for the su
> of his wife * * *

The enlisted man there described clearly inc
the drafted soldier below the grade of officer, as

the language of the Soldiers' Insurance Act of October 6, 1917, c. 105, 40 Stat. 398, as follows:

> (P. 402.) SEC. 200. That the provisions of this article (relating to allotments and family allowances) shall apply to all *enlisted* men in the military or naval forces of the United States.
>
> (P. 405.) SEC. 300. That for death or disability resulting from personal injury suffered or disease contracted in the line of duty, by any commissioned officer or *enlisted* man * * * the United States shall pay compensation * * *
>
> (P. 409.) SEC. 400. That in order to give to every commissioned officer and *enlisted* man * * * greater protection for themselves and their dependents than is provided in Article III, the United States * * * shall grant insurance * * *

The act of March 16, 1918, Public, No. 105, Sixty-fifth Congress, is also broadly inclusive. The act authorizes the Secretary of War—

> to grant furloughs to *enlisted* men of the Army of the United States * * * to permit said *enlisted* men to engage in civil occupations and pursuits.

The Army appropriation act of July 9, 1918, Public No. 193, Sixty-Fifth Congress, uses the term "enlisted man" in the same comprehensive sense. On page 8 it provides:

> *Enlisted* men of the line: For pay of one million nine hundred and sixty-four thousand three hundred and seventy-six enlisted men of the line, $776,458,721.04.

See also page 40 of the Army appropri
providing for claims for loss of private pro
longing to officers and enlisted men. P
these war statutes, "enlisted" includes all m
than officers, who become members of t
either by volunteering or draft.

Certain analogies in the Civil War draft l
firm this view. The above-mentioned act of
1863, contained a section, namely, sec
directed against interference with the draft,
by force applied to the draft officers or force o
applied to the military eligible. That sect
as follows:

> That if any person shall resist any
> men enrolled under this act into th
> of the United States, or shall counse
> any persons to resist any such draft;
> assault or obstruct any officer in mak
> draft, or in the performance of any s
> relation thereto; or shall counsel any
> to assault or obstruct any such of
> shall counsel any drafted men not to
> at the place of rendezvous, or willfu
> suade them from the performance of
> duty as required by law, such person
> subject to summary arrest by the
> marshal, and shall be forthwith deliv
> the civil authorities, and, upon co
> thereof be punished by a fine not ex
> $500, or by imprisonment not exceedi
> years, or by both of said punishments.

Experience had developed that the section
cover attacks upon the registration or, as th

then called, enrollment officers, and in a supplementary statute, the act of February 24, 1864, c. 13, 13 Stat. 6, section 12, Congress provided:

> That any person who shall forcibly resist or oppose any enrollment, or shall incite, counsel, encourage, or who shall conspire or confederate with any other person or persons, forcibly to resist or oppose any such enrollment; or who shall aid or assist, or take any part in any forcible resistance or opposition thereto; or who shall assault, obstruct, impede, or threaten any officer or other person employed in making or aiding to make any such enrollment, or employed in the performance, or aiding in the performance, of any service in any way relating thereto, etc., shall, upon conviction, be punished by fine not exceeding $5,000; or by imprisonment not exceeding five years; or both of said punishments, in the discretion of the court. And in cases where such assaulting shall produce the death of such officer or other person, the offender shall be deemed guilty of murder, and upon conviction, etc., be punished with death, etc. And nothing in this section shall be construed to relieve the party offending from liability, under proper indictment or process, for any crime against the laws of a State.

In *United States* v. *Scott*, *supra*, this court held that this section 12 supplemented and did not modify section 25 of the earlier law. The Selective Service Act of 1917 provided for raising the new armies by both volunteering and draft; but provision

against obstruction of this process was not placed in the Selective Service Act itself, but in the Espionage Act passed a few weeks later. This Espionage Act was obviously designed to protect the whole military program against all types of interference therewith; and it is a reasonable inference that in the phrase "obstruct the recruiting and enlistment service" Congress intended to cover all willful interference with the process of raising of the Army, including both volunteer and draft process and including the types of interference which had been enumerated in the Civil War draft laws.

The Espionage Act was pending at the same time as the Selective Service Act and was finally passed a few weeks later; and, taking into consideration the exigency which produced these statutes, their purpose, the meaning given to the word "enlisted" in the Selective Service Act, and the fact that the new armies were being raised both by voluntary enlistment and draft, there can be no doubt that "obstruct the recruiting and enlistment service" was intended to cover all willful obstruction of the process of raising the armies, both volunteer and draft, not already covered by previous statutes.

As his audience contained both men subject to the draft and men eligible as volunteers, the evidence and verdicts of the jury show the defendant to have been guilty, whether the phrase under discussion be given the narrower meaning given it by the trial court or the broader meaning claimed by the Government.

V.

The constitutional question discussed by defendant not necessarily involved in this case—No infringement of first amendment in conviction of defendant.

(A) RIGHT OF FREE SPEECH NOT ABSOLUTE—SUBJECT TO WELL-RECOGNIZED EXCEPTIONS.

The defendant seems to contend that the first amendment of the Constitution creates a sort of field of immunity from Federal interference for all exercise of the vocal organs, as distinguished from the other parts of the human organism; and likewise a field of immunity from Federal interference of all products of the printing press as distinguished from other human contrivances. The history of criminal and constitutional law demonstrates the fallacy of any such conception. Many Federal crimes, sanctioned by the courts, consist exclusively of the use of the spoken, written, or printed word. For instance, the crime of fraud in its various phases is generally committed exclusively by means of the written or spoken word. Conspiracy frequently does not get beyond the use of spoken or written words. Further concrete illustrations are hardly necessary. There can be no doubt that punishment may be administered for causing an evil or danger to public safety or welfare by means of the written or spoken word, as well as by the use of other human faculties or products.

2 Story Constitution of the United States, 5th ed., pp. 634, 635, says:

> That this amendment was intended to secure to every citizen an absolute right to speak, write, or print whatever he might please, without any responsibility, public or private, therefor, is a supposition too wild to be indulged in by any rational man. This would allow every citizen to destroy at his pleasure the reputation, the peace, the property, and even the personal safety of every other citizen. A man might, because of mere malice or revenge, stir up rebellion and treason even against the Government itself. * * * It is plain, then, that the language of this amendment imports no more than that every man shall have the right to speak, write, and print his opinions on any subject whatsoever without any prior restraint so always that he does not disturb the public peace, or attempt to subvert the Government.

Robertson v. *Baldwin*, 165 U. S. 275, where this court at page 281 says:

> The law is perfectly well settled that the first ten amendments to the Constitution * * * were not intended to lay down any novel principles of government, but simply to embody certain guaranties and immunities which we had inherited from our English ancestors and which had from time immemorial been subject to certain well-recognized exceptions. * * *

In the recent case of *Toledo Newspaper Co.* v. *United States*, 247 U. S. 402, 419, dealing with the subject of the obstruction of justice by means of newspaper articles, this court said:

> We might well pass the proposition by because to state it is to answer it, since it involves in its very statement the contention that the freedom of the press is the freedom to do wrong with impunity and implies the right to frustrate and defeat the discharge of those governmental duties upon the performance of which the freedom of all, including that of the press, depends. The same guarding and fructification of free and constitutional institutions is the very basis and mainstay upon which the freedom of the press rests, and that freedom therefore does not and can not be held to include the right virtually to destroy such institutions. It suffices to say that, however complete is the right of the press to state public things and talk them, that right, as every other right in human society, is subject to the restrictions which separate right from wrong doing.

(B) CONSTITUTIONAL GUARANTY DOES NOT INCLUDE INTENTIONAL INCITEMENT TO VIOLATION OF LAW—DEFENDANT CHARGED WITH SUCH INCITEMENT AND FOUND GUILTY THEREOF.

In the sentence on page 71 of his brief, reading—

> * * * Beyond purposeful incitement to specific unlawfulness on the part of others, there is no power in Congress to make public

> utterances criminal, under any exigency, or as an incident of any express power granted to Congress under the Constitution—

the defendant admits that intentional incitement to violations of law by others does not fall within the constitutional immunity. But "purposeful incitement to specific unlawfulness on the part of others" is just what the defendant was charged with in this case, and the jury found him guilty. The charge against him was that of attempting to cause violations of the Selective Service and other laws relating to military service on the part of men subject to those laws.

The defendant seems to contend that as he did not express this unlawful advice in words so direct, plain, and unmistakable as to leave no room whatever for the slightest thought or intellectual process on the part of the jury, no need of any process of inference whatever, the constitutional immunity applies to his speech. This means that the Constitution renders the Nation powerless to punish any incitement to lawlessness, however intentional and however effective, so long as it is concealed in veiled, indirect, or rhetorical language.

This contention is, of course, not sustainable. It was discussed by the Circuit Court of Appeals for the Second Circuit in *Masses Publishing Co.* v. *Patten,* 246 Fed. 24. That case also involved the constitutionality and interpretation of section 3, Title I, of the Espionage Act and is quite analogous to the case at bar in its issues both of fact and law.

The lower court held that certain articles and cartoons published in The Masses could not be said to violate the Espionage Act and enjoined the Postmaster from barring them from the mails. The quotations on pages 65–69 of the defendant's brief are from the opinion rendered by the lower court. This decision was, however, reversed by the Court of Appeals, which, speaking through Judge Rogers, said on page 37 of the report:

> * * * The district judge thought no crime had been committed, and that the magazine was therefore mailable, because the publicatiou did not in so many words directly advise or counsel a violation of the act. He declared that—
>
> "If one stops short of urging upon others that it is their duty or their interest to resist the law, it seems to me one should not be held to have attempted to cause its violation. If that be not the test, I can see no escape from the conclusion that under this section every political agitation which can be shown to be apt to create a seditious temper is illegal. I am confident that, by such language, Congress had no such revolutionary purpose in view."
>
> This court does not agree that such is the law. If the natural and reasonable effect of what is said is to encourage resistance to a law, and the words are used in an endeavor to persuade to resistance, it is immaterial that the duty to resist is not mentioned, or the interest of the persons addressed in resistance

is not suggested. That one may willfully o
struct the enlistment service, without advisi
in direct language against enlistments, a
without stating that to refrain from enli
ment is a duty or in one's interest, seems to
too plain for controversy. To obstruct t
recruiting or enlistment service, within t
meaning of the statute, it is not necessa
that there should be a physical obstructio
Anything which impedes, hinders, retards, r
strains, or puts an obstacle in the way of r
cruiting is sufficient. In granting the st
of the injunction until this case could be hea
in this court upon the appeal Judge Hou
declared that—

"It is at least arguable whether there ca
be no more direct incitement to action tha
to hold up to admiration those who do ac
Oratio obliqua has always been preferred b
rhetoricians to oratio recta; the Beatitud
have for some centuries been considered highl
hortatory, though they do not contain th
injunction, 'Go thou and do likewise.' "

With this statement we fully agree. Mor
over, it is not necessary that an incitement t
crime must be direct. At common law th
"counseling" which constituted one an acce
sory before the fact might be indirect. Se
Wharton's Criminal Law (11th ed.), sec. 26
Bishop lays down the rule thus:

"Every man is responsible criminally fo
what of wrong flows directly from his corrup
intentions. * * * If he awoke into actio
and indiscriminate power, he is responsible
If he gave directions vaguely and incautiously

> and the person receiving them acted according to what he might have foreseen would be the understanding, he is responsible." 1 Bishop on Criminal Law, sec. 641.

Circuit Judge Ward in his concurring opinion, stated "Advice to resist the law may be indirect as well as direct."

(c) CHARGE OF COURT ON ISSUE OF DEFENDANT'S PURPOSE AND INTENT WAS FREE FROM ERROR AND FULLY PROTECTED DEFENDANT'S RIGHTS.

The question of the defendant's intent or purpose—that is, the issue between the Government's charge of unlawful purpose and defendant's defense of lawful purpose, was placed by the court before the jury in a manner so clear and so fair to the defendant, that he does not and could not complain of the charge in this respect. The court told the jury (R. 279–280):

> In passing upon the question of specific intent, I wish to say something additional thereto. Disapproval of war is, of course, not a crime, nor is the advocacy of peace a crime under this law, unless the words or utterances by which the expression or advocacy is conveyed shall have been willfully intended by the person making them to commit the acts forbidden by this law, and, further, not even then unless the natural and reasonably probable tendency and effect of such words and language as he may use will have the effect and consequences forbidden by the law.

Every citizen, I say to you, notwithstandin
the espionage law, has the right, withou
intending to cause insubordination, disloyalt
or refusal of duty, or without intending t
obstruct the recruiting or enlistment servic
of the United States, or without intending t
resist the United States, or to promote th
cause and success of its enemies, or oppose th
cause of the United States, to discuss, criticiz
or disapprove of any law proposed or in exist
ence, or of any policy proposed or in existence
made for the purpose of carrying on the war

If you shall find from the evidence here tha
the defendant did nothing more than that by
this public speech and utterance, and intended
nothing more than that by this public speech
and utterance; or even if you find that he
intended more than that, but the natural and
reasonably probable consequences of what he
said and did would be to produce no other
result or effect in the minds of his hearers,
then he is not guilty, and it will be your duty,
in the discharge of your oath, to find him not
guilty.

If the conscious purpose of the defendant
was only to state the truth as he saw it, to
convey information to his fellow citizens,
with the object only of bringing about the
reconstruction or reshapement, by peaceful,
ordinary methods, of the national policy in
accordance with what he believed to be the
right and correct view of the national policy,
and that he did not, in so doing, have the intent
willfully to do any of the prohibited acts, he
would not, in that event, be guilty, and it

> would be your duty also, to return a verdict of not guilty. An offense under this law, as I have said to you, and I repeat, is committed only when the defendant has the specific, willful, criminal intent, such as has been defined, and the words and utterances have a natural and reasonably probable tendency to cause the results which have been forbidden by these provisions of the espionage law.

(D) ISSUE THEREFORE NARROWS DOWN TO SUFFICIENCY OF EVIDENCE—NOT A CONSTITUTIONAL QUESTION—EVIDENCE AMPLY SUPPORTS VERDICT.

The Canton speech being, to say the least, capable of an interpretation as an "incitement to specific unlawfulness on the part of others," and the court having fairly left to the jury the question whether it was such and was "purposeful," the defendant would seem to be reduced to the contention that the evidence does not support the verdict. The sentences on page 64 of his brief reading—

> Our contention here is that the pleadings, rulings on evidence, and instructions have led to a sedition conviction under a thin disguise of a charge of actual military obstruction by means of words spoken to the Canton audience, and that this conviction can not be sustained under any unequivocal application of the first amendment.
>
> * * * The conclusion is irresistible that in spite of the cloak of military appropriateness given by a free use of the phraseology of

> the Espionage Act, the conviction of Mr. rests squarely upon his "seditious tempe and nothing else—

show his recognition of this position in which logically placed. The sufficiency of the evidenc however, not a constitutional question. A co tutional question is, therefore, not necess involved in this case.

No lengthy review of the evidence is require show that it amply supports the verdict. At a of extreme military crisis in a great war, the def ant, an adherent of a platform which advoc uncompromising resistance to war service, deliv an eloquent address to a working-class audience. was the announced speaker of the occasion, and speech was a long one, too long to be consid merely an impulsive utterance. The internati Socialist movement was described as based upon principle of a bitter conflict between the wor classes and others and the war as an instrumenta devised and used by these others in this conf The audience was told "there is but one thing you have to be concerned about, and that is that keep foursquare with the principles of the in national Socialist movement." Men who had b convicted or jailed for obstruction of the milit service were held up to praise and emulation martyrs on the workers' side of this conflict, and held forward as preferable to any submission to service of their enemies; that is, service in the v Refusal to submit would be called treason, but

would be treason to the enemy, that is, the exploiting classes, not treason to themselves, the workers; and their duty is to be true to themselves. These sentiments can have but one meaning, the meaning attributed to them by the jury. At least the evidence amply supports the verdict. The fact that the defendant may have joined this unlawful appeal with a lawful appeal to join the Socialist Party does not relieve him from the consequences imposed by the law.

(E) CONSTITUTIONAL GUARANTY OF FREE SPEECH DOES NOT GRANT IMMUNITY FOR DELIBERATE OBSTRUCTION OF PROCESS OF RAISING ARMY, WHETHER BY VOLUNTEERS OR DRAFT.

The court's charge to the jury on the fourth count of the indictment does, however, raise a constitutional question which, though for the above reasons not necessarily involved in this case, should, for the sake of completeness, be discussed. The court in effect charged the jury that willful obstruction of volunteering falls within the expression "obstruct the recruiting and enlistment service." The question may be stated in this way: The country being at war and engaged in raising an enlarged Federal Army, both by draft and by volunteer service, does the first amendment of the Constitution prohibit Congress from penalizing a public address of a nature calculated to and actually intended to obstruct the process of raising the volunteer portion of this Army by inducing men of military age not to volunteer?

Congress is expressly granted the power to
war and raise and support armies. The po
protect the process of raising these armies is
sarily implied. The Government contends th
power, so vital to the Nation and so inherent
right of national self-preservation, includ
power to punish willful obstruction of that p
whether that obstruction be by spoken or
word or by other means.

The prevailing view in the United States is th
constitutional guaranty of a free press is di
against a system of license or censorship pr
to publication and does not relate to immunity
punishment. This view is often referred to
Blackstone doctrine, based on the passage
4 Blackstone Commentaries, 151, reading:

> * * * freedom of the press *
> "consists in laying no previous rest
> upon publications, and not in freedom
> censure for criminal matter when publ
> * * * To subject the press to the restr
> power of a licenser, as was formerly
> both before and since the revolution,
> subject all freedom of sentiment to the
> judices of one man, and make him the
> trary and infallible judge of all controv
> points in learning, religion, and governme

In *Rex* v. *St. Asaph*, 3 T. R. 428, (note a)
Lord Mansfield said: "The liberty of the
consists in printing without any previous lic
subject to the consequence of law."

That view has been sustained by this court in *Patterson* v. *Colorado* (1907), 205 U. S. 454, where, speaking through Mr. Justice Holmes, this court said:

> The main purpose of such constitutional provisions is to "prevent all such previous *restraints* as had been practiced by other governments," and they do not prevent the subsequent punishment of such as may be deemed contrary to the public welfare.

The court then proceeds to the length of saying:

> The preliminary freedom extends as well to the false as to the true; the subsequent punishment may extend as well to the true as to the false.

This view is to some extent inapplicable to free speech, as a licensing or censorship system can not, in the nature of things, be applied to the spoken as distinguished from the printed word. Some authorities hold that the constitutional provision grants some degree of immunity from punishment and restricts the power of the legislature to the field of those crimes which were punishable according to common-law standards. But all authorities agree that there is no immunity from punishment of that which is generally recognized as harmful, such as obscene, libellous, and seditious matter. For instance, *Cooley on Constitutional Limitations*, 6th Ed., 441–442, says:

> * * * we understand liberty of speech and of the press to imply not only liberty to

> publish, but complete immunity from legal censure and punishment for the publication, so long as it is not harmful in its character, when tested by such standards as the law affords. For these standards we must look to the common law rules which were in force when the constitutional guaranties were established * * *.

Warren v. *United States*, 106 C. C. A. 156, where the court holding that unrestrained use of the mails was not guaranteed by the first amendment said at page 159:

> Liberty and freedom of speech under the Constitution do not mean the unrestrained right to do or say what one pleases at all times under all circumstances * * *. The very idea of government implies some imposition of restraint in the interest of the general welfare, peace, and good order.

See also—

Ex Parte Jackson, 96 U. S. 727.

In *People* v. *Most*, 171 N. Y., 423, at p. 432, the court, speaking of the constitutional guaranty of free speech said:

> It places no restraint upon the power of the legislature to punish the publication of matter which is injurious to society according to the standard of the common law. It does not deprive the State of the primary right of self-preservation. It does not sanction unbridled license, nor authorize the publication of articles prompting the commission of murder or the overthrow of government by force. All courts

> and commentators contrast the liberty of the press with its licentiousness, and condemn as not sanctioned by the constitution of any State, appeals designed to destroy the reputation of the citizen, the peace of society, or the existence of the Government. (Story on the Const. sec. 1878; Cooley on Constitutional Limitations, 518; Ordronaux on Constitutional Legislation, 237; Tiedeman on Police Powers, sec. 81.)

Seditious utterances or libel was a well-recognized common-law crime, and, therefore, outside the reach of the "abridgement" prohibited by the Constitution. The defendant asserts that the Sedition Law of 1798 was held to be unconstitutional and seeks to have the Espionage Act condemned as a revival of that discredited statute. But the clauses of the Espionage Act which are involved in this case bear no analogy whatever to the objectionable features of the old Sedition Law. That law sought to punish libelous attacks on the Government. The Espionage Act carefully avoids that pitfall. It does not seek to punish attacks on the Government, however malicious or libelous. The clauses of the Espionage Act for which this case is based relate to interference with the process of raising armies and represent an exercise by Congress of its constitutional power to raise armies.

But, as related to the question of the scope of the powers of Congress when the exercise of one of its powers may affect the freedom of speech or press, the fact that seditious utterances were, at common law, recognized as within the scope of lawful legis-

lative domain is pertinent. So, without the slightest admission of any analogy between the Sedition Law and the Espionage Act, we beg to deny the defendant's assertion that the former statute was generally held to be unconstitutional. The contrary is the truth.

2 Story on the Constitution, 5th Ed., pages 643, 644, in commenting upon that statute says:

> This act was immediately assailed as unconstitutional. Its constitutionality was deliberately affirmed by the courts of law and in a report made by a committee of Congress. It was denied by a considerable number of States, but affirmed by a majority.

Dean Roscoe Pound, of the Harvard law school, in an article in the Harvard Law Review of April 1916, page 640, entitled "Equitable Relief Against Defamation," being one of the articles contributed to that Review in celebration of the seventy-fifth birthday of Mr. Justice Holmes, discusses the subject of the relation of the freedom of the press to the right of injunctive relief against libel, referring particularly to the case of Brandreth *v.* Lance, 8 Paige 24. In the course of that discussion, at page 650 he gives the following summary of the scope of the constitutional guaranties:

> We are brought, then, to the question which is the crux of the matter in this country, namely, what is an infringement of freedom of the press and freedom of speech, as guaranteed by the bills of rights in American constitutions? Historically these provisions

are connected with censorship of publications in England. At first this censorship was exercised by the Crown, later by the Star Chamber, and finally by Parliament, which provided for the censoring of all written publications down to 1694, when the statute for the time being expired and was not renewed. Writers of the end of the eighteenth century took this obsolescence of the censorship as declaratory of a natural or common-law principle of liberty of the press, as one of the rights of Englishmen. Accordingly our bills of rights guarantee freedom of speech and of publication as an individual natural right. Blackstone, whose views were generally accepted as common law in this country when the bills of rights were framed, holds that liberty of the press means simply the absence of restraints upon publication in advance as distinguished from liability, civil or criminal, for libelous or improper matter, when published. Story contends that it was intended to guarantee liberty of publishing the truth, with good motives and for proper ends, and approves a distinction between political publications, criticisms, and general discussions on the one hand and mere defamation of private individuals on the other hand. A third view is taken by Cooley. He considers that the bills of right guarantee "not only liberty to publish but complete immunity from legal censure and punishment for the publication so long as it is not harmful in its character, when judged by such standards as the law affords." In other words, printing

and speaking are to be subject to general rules of law, not to administrative censorship or arbitrary legislative restriction. The cases are most nearly in accord with this view.

Of the three doctrines as to the scope of liberty of publication, only Blackstone's would justify the position taken in *Brandreth* v. *Lance*, namely, that there can be no preventive judicial justice as against defamation; that as to writing and speaking, all legal action must necessarily come after the act. But this view is open to obvious criticism. For if liability for any sort of publication which the legislature chooses to penalize may be imposed upon the publisher after the act, the result may easily be to effectually prevent indirectly and so establish a censorship and evade the guaranty. Blackstone's doctrine has usually been criticised as not going far enough in securing against imposition of liability after publication upon arbitrary or unreasonable grounds. Equally it goes too far in denying to the law all power of restraint before publication. Although its best title to consideration is in the history of the subject, it goes beyond what history indicates as the main purpose, namely, freedom from a régime of general censorship and license of printing.

No very clear line is to be found in the decisions. Excepting *Brandreth* v. *Lance* and the cases following it, Blackstone's view has been urged chiefly in dicta. So far as imposition of liability after publication interferes with freedom of publication, four limitations

are well established: (1) The constitutional provision does not guarantee the liberty to intimidate by speech and writing. If this limitation may be enforced preventively as well as by penalty or damages, there is sufficient support for the cases presently to be noted, where publication incidental to or as part of an unlawful system of coercion or intimidation was enjoined. It will be seen that the only courts which clearly hold to the contrary in the latter case are those of Missouri and Montana. But the decisions in the former jurisdiction are not very consistent. Although in *Marx* v. *Watson*, 168 Mo. 133, the court held that the constitution protected a power to intimidate through publication, in *State* v. *McCabe*, 135 Mo. 450, it held that the constitution did not protect a creditor in the power to compel a debtor to pay a just debt by publishing that it was unpaid and injuriously affecting the debtor's credit — even if the publication were true. In *State* v. *Shepherd*, 177 Mo. 205, the same court seems to adopt Story's doctrine. (2) The constitution does not protect the citizen in publishing immoral or indecent matter, nor guarantee such publication against prohibition by the legislature. All the courts seem to agree to this. (3) It does not give immunity for contempt in interfering with the course of justice. All courts are agreed as to this, though as we have seen, the sole American decision is against enforcement of this limitation preventively to secure a litigant against unlawful interference with his

right to obtain justice in the courts by threatening or prejudicial publications. It may be noted that this question was involved in the earliest reported suit to enjoin a libel. (4) The constitutional provision does not preclude restrictions upon publication dangerous to the conduct of military operations in time of war. *Ex parte Vallandigham*, 1 Wall. 243. In the foregoing cases the legislature may prohibit publication and impose adequate penalties to enforce the prohibition. Except for the matter of trial by jury, to be considered presently, the difference between this course and the finding of a court that a threatened publication involves gross and palpable violation of private rights, for which damages would be no remedy, followed by a contempt proceeding in case of violation, is not very substantial. It can not be denied that for the most part these limitations may be reconciled with the doctrine that all preventive interference with publication is prohibited. But that doctrine makes the guaranties merely formal and unless the language of the bill of rights in a particular jurisdiction clearly adopts Blackstone's view, it might well be held that there are limitations on the guaranty, whether invoked against preventive or against remedial justice.

Surely the raising of the Army is an important part of military operations.

Coming to the judicial decisions on the Espionage Act itself, all courts, both District and Appellate, which have passed on the question at all, have

upheld the constitutionality of section 3, Title I, when interpreted, as by the trial court in the instant case.

See

United States v. *Prieth, 251 Fed. R., 946.*
United States v. *Pierce, 245 Fed. R., 878.*
O'Hare v. *United States, 253 Fed. R., 538.*

No authority can be adduced for the defendant's contention that there is a constitutional right to obstruct by speech the exercise of the power to raise armies so long as the speaker does not urge a violation of law. If, as has been held by this court in the recent case of *Toledo Newspaper Co.* v. *United States*, 247 U. S., 402, punishment may constitutionally be meted out for a wilful obstruction of the administration of justice, it is difficult to see why the administration of the war powers of Congress is not entitled to the same protection. The events of 1917 showed that war may become as essential as justice to the preservation of our democratic form of government. If, as recently held by this court in *The Selective Draft Cases*, 245 U. S., 366, Congress has the power, for the waging of war which it deems justified, to deprive a man of his liberty, even of his life, for the purpose of raising an Army which it deems essential, surely, for this same purpose of raising an Army, Congress may require the citizen to refrain from a deliberate, wilful obstruction of the process of obtaining the requisite number of fighting men. It is only wilful obstruction which the statute

seeks to reach, and the court so told the jury
this case. The power of Congress to reach s
wilful obstruction is inherent in the right of s
preservation, and, as stated by this court in *Tu*
v. *Williams*, 194 U. S., 279, 294, "As long
human governments endure, they can not be
nied the right of self-preservation." To the
fendant's contention that he has the constitutio
right to obstruct the raising of the Army, so l
as he restricts himself to speech or press, t
court might well give the answer which it g
to the similar contention put forward in the *To*
Newspaper Co. v. *United States*, supra:

> We might well pass the proposition
> because to state it is to answer it, since
> involves in its very statement the content
> that the freedom of the press is the freed
> to do wrong with impunity and implies
> right to frustrate and defeat the discharge
> those governmental duties upon the perfo
> ance of which the freedom of all, includ
> that of the press, depends. The same gua
> ing and fructification of free and consti
> tional institutions is the very basis and ma
> stay upon which the freedom of the p
> rests, and that freedom therefore does
> and can not be held to include the ri
> virtually to destroy such institutions. It
> fices to say that, however complete is
> right of the press to state public things
> talk them, that right, as every other right
> human society, is subject to the restricti
> which separate right from wrong doing.

CONCLUSION.

The judgment of the court below should be affirmed.

JOHN LORD O'BRIAN,
The Special Assistant to the Attorney General for War Work.

ALFRED BETTMAN,
Special Assistant to the Attorney General.

JANUARY, 1919.

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and is an attempt case. Confusion rather than clarification of thought results from a discussion of issues which may be pertinent to other cases arising under the same law, but are not pertinent to the actual issues and actual facts of the case at bar. Mr. Roe's points will therefore be discussed here only in so far as they are pertinent to this case.

The Government agrees with Mr. Roe that Title I of the Espionage Act deals exclusively with overt acts directed against the military measures and program of the Government. A long speech before a large audience is surely an overt act. The defendant, Debs, was charged with an attempt to cause insubordination in the military forces and to influence military eligibles against military service. Certainly such interference is directed against the military measures of the Government. The interpretation of the Espionage Act as applied in this case corresponds entirely to that contended for by Mr. Roe.

The Government also thoroughly agrees with Mr. Roe that Congress has not the power to punish belief or opinion as such. The right to criticize the Government's policies and actions is so essential to democracy, that in any definition of the freedom of speech and press, that right would be acknowledged. The defendant was not prosecuted for hostile criticism of the war. He was prosecuted for a wilful and deliberate attempt to obstruct the execution of a Government policy, namely, to obstruct the process of raising an army; and, under no definition of freedom

of speech for which any authority could be adduced, is the privilege given of wilfully and deliberately obstructing the execution of a lawfully adopted governmental policy, though the means or instrumentality used for that obstruction be the utterance or printing of words.

In view of this agreement upon the interpretation of the Espionage Act and the meaning of the constitutional guarantee of free speech and press, what is the issue raised by Mr. Roe's brief? It is this: Mr. Roe claims, that by reason of the temper of the public during a war, a law directed at obstruction of the prosecution of the war will inevitably be applied so as to suppress all critical discussion of the war, and that the Espionage Act, as applied by courts and juries, has produced that effect. In his zeal for free speech, however, he appears willing to or desirous of subverting several vital features of the Constitution of the United States, namely, the jury system and the separation of executive, legislative, and judicial powers. If a trial be free from prejudicial errors and the verdict finds support in the evidence, then the vice, if any, which exists in that verdict must either be inherent in the policy of the law under which the case was prosecuted, a consideration falling exclusively within the domain of the legislative branch of the Government, or must be one which the President alone, by act of executive clemency, can correct. Mr. Roe's plea amounts to an appeal to this court to ignore the constitutional limitations of its functions

and correct what he conceives to be a mistaken legislative policy or mistaken, though lawful, verdicts.

Narrowing this discussion, then, to those issues which do properly fall within the scope of this case, as Mr. Roe does not refer to any errors in the admission of evidence or in the interpretation of the language of the statute nor to the facts of this case at all, his arguments, in so far as they relate to this case, must be in effect, that the trial court applied a definition or conception of the constitutional guaranty of free speech which is contrary to the true and correct definition or conception.

But, in the case at bar, the trial court gave to the constitutional right of free speech a scope and meaning fully corresponding to Mr. Roe's contentions. In his charge to the jury the trial judge said (R. 274):

> * * * The law does not forbid differences of opinion or reasonable discussion as to the causes which induced Congress to declare war, or as to the results to be attained by war, or at the end of the war, nor the time and conditions under which the war should be brought to an end, nor any reasonable and tempered discussions and differences of opinion upon any or all of the measures or policies adopted in carrying on the war. The law is limited to making it a crime to oppose by word or act the military measures taken by the United States, or under lawful authority by the officers of the United States for the purpose of prosecuting that war to a successful end.

And again (R. 279, 280):

> In passing upon the question of specific intent, I wish to say something additional thereto. Disapproval of war is, of course, not a crime, nor is the advocacy of peace a crime under this law, unless the words or utterances by which the expression or advocacy is conveyed shall have been wilfully intended by the person making them to commit the acts forbidden by this law, and, further, not even then unless the natural and reasonably probable tendency and effect of such words and language as he may use will have the effect and consequences forbidden by the law.
>
> Every citizen, I say to you, notwithstanding the Espionage Law, has the right, without intending to cause insubordination, disloyalty, or refusal of duty, or without intending to obstruct the recruiting or enlistment service of the United States, or without intending to resist the United States, or to promote the cause and success of its enemies, or oppose the cause of the United States, to discuss, criticize, or disapprove of any law proposed or in existence, or of any policy proposed or in existence, made for the purpose of carrying on the war.
>
> If you shall find from the evidence here that the defendant did nothing more than that by this public speech and utterance, and intended nothing more than that by this public speech and utterance; or even if you find that he intended more than that, but the natural and reasonably probable consequences of what he

said and did would be to produce no ot
result or effect in the minds of his hear
then he is not guilty, and it will be your d
in the discharge of your oath to find him
guilty.

If the conscious purpose of the defend
was only to state the truth as he saw it
convey information to his fellow citizens, w
the object only of bringing about the rec
struction or reshapement, by peaceful, ordin
methods, of the national policy in accordan
with what he believed to be the right and c
rect view of the national policy, and that
did not in so doing have the intent wilfu
to do any of the prohibited acts, he would n
in that event be guilty, and it would be yo
duty, also, to return a verdict of not guilt
An offense under this law, as I have said
to you, and I repeat, is committed only wh
the defendant has the specific, wilful, cri
inal intent, such as has been defined, and t
words and utterances have a natural and re
sonably probable tendency to cause the resul
which have been forbidden by these prov
sions of the Espionage Law.

The charge to the jury in this case might well
quoted as authority for Mr. Roe's contentions. An
as shown in the Government's main brief, the evidenc
amply supports the verdict.

II.

First Amendment of Constitution prescribes limitations, in preservation of individual liberties, upon the exercise of all Federal governmental powers and is not itself concerned with the grant or withholding of particular governmental powers or functions to or from the Federal Government. Madison's majority report of Virginia House of Delegates and other documents quoted by Mr. Roe are political pamphlets issued in a heated political campaign. John Marshall wrote a minority report upholding the constitutionality of the Sedition Act and interpreting Federal powers and the First Amendment in accordance with the later and settled adjudications of this court. Sedition Act was a general statute directed at seditious libels and not analogous to Espionage Act, which is directed at wilful obstruction of a special exercise of the Federal power to raise armies.

In the course of his argument Mr. Roe seeks to develop the proposition that the First Amendment specifies a certain field of governmental powers or functions from which the Federal Government is entirely excluded. This is a fallacious conception of the First Amendment, its nature and purpose. As pointed out in the authorities cited in the main brief, the First Amendment does not deal with the grant or withholding of governmental powers, nor the distribution of governmental powers as between the Nation and the States. It is a part of the Bill of Rights, which specifies certain recognized liberties of the individual which the Federal Government is prohibited from infringing in the course of the exercise of any of the governmental powers entrusted to it.

The word "abridge" necessarily implies the ex
and recognition of limitations upon freedom o
and speech; and the nature of these limitati
therefore, the object of inquiry when the First A
ment is invoked. As shown in the Govern
main brief, the liberty of press and speech has
included the right to advocate violation of law
obstruct the carrying out of a governmental
and any Federal power, such as the power t
armies, necessarily includes the power to
wilful obstruction of the exercise of that powe

In view, however, of the assertion made in
briefs for defendants before this court and
reiterated elsewhere that the true interpretat
the First Amendment is to be found in the Ken
Resolutions and the report written by Madis
the Virginia House of Delegates, we respectful
the attention of the court to the fact, that a
time there were presented to the people, by e
eminent authorities, statements setting forth
ferent interpretation of the First Amendmen
the interpretation subsequently adopted by
court. For example, the House of Represent
on February 25, 1799, sitting as the Committee
Whole, received the report of a Select Committ
the petitions praying for a repeal of the Alie
Sedition laws. In this report this committe
clared *inter alia* that the liberty of the press con
not in license for every man to publish wh
pleased without being liable to punishment, but

permission to publish without previous restraint whatever he might think proper, being answerable to the public and to individuals for any abuse of this permission to their prejudice. (See Annals of Congress, 5th Congress, 1797–1799, Vol. 3, pp. 2986, 2989.)

In discussing this particular question, the brief of the *amicus curiae* refers to the Sedition Act of 1798 and quotes extensively from the political literature circulated in 1798 and 1799. As the Government pointed out in its main brief, the Sedition Act, which attempted to reach seditious and false utterances aimed at the Government, is in no way analogous to the Espionage Act as interpreted in the case at bar, which is based squarely on the constitutional ground of power of Congress to raise armies. An extensive discussion of the Sedition Act leads into irrelevant fields and tends to becloud the issues. It is true, however, that a discussion of the meaning of the First Amendment was brought forth by the political controversy over the constitutionality of the old Sedition Act. But in defining the scope of the constitutional guarantees, it must constantly be borne in mind that all of the contemporaneous discussions, including the assertions made in Jefferson's Kentucky Resolutions and Madison's report on the Virginia Resolutions, were discussions made in the heat of the antifederalist election campaign of 1798 and 1799, and that, after all, these resolutions and reports have distinctly the character of partisan documents put forth in the heat of a bitter political contest.

In discussing the historical origin of t
ment, we deem it important to call atte
fact that text writers, as well as brief w
overemphasized the importance of the
forth in the resolutions referred to.
written by Madison was in reality an ap
people by the majority of the Virginia
Delegates. But it must not be forgotte
Minority of the Virginia House of Del
made a report at the same time, subseque
as an appeal to the people, in which was
expressed the interpretation of the Firs
ment contended for by the Governme
instant case. It is a historical fact, long
of, that this so-called minority report wa
written by John Marshall, at that time a
for Congress. The circumstances which
forth this minority appeal, Marshall's a
and its contents are fully described in vo
Albert J. Beveridge's "The Life of John M
pages 401–406, in which the following
occur:

> This "Address" of the Virginia L
> was aimed primarily at Marshall, wh
> far the most important Federalist can
> Congress in the entire State. It was
> at public expense and Marshall's frie
> not possibly get his views before the
> authoritatively or so widely. But
> their best, for it was plain that M
> Jeffersonized appeal, so uncharacteristi
> former Nationalist, must be answere

shall wrote the reply of the minority of the Legislature, who could not "remain silent under the unprecedented" attack of Madison. "Reluctantly," then, they "presented the present crisis plainly before" the people.

* * * * *

The House of Delegates, by a vote of 92 against 52 refused to publish the address of the minority along with that of the majority. Thereupon the Federalists printed and circulated it as a campaign document. It was so admired by the supporters of the Administration in Philadelphia that, according to the untrustworthy Callender, 10,000 copies were printed in the Capital and widely distributed.

Marshall's authorship of this paper was not popularly known; and it produced little effect.

* * *

These political pamphlets were early guns in that contest between Federal and State rights and between strict and broad construction of the Constitution, in which Marshall's views prevailed and later embodied in *McCulloch* v. *Maryland*, 4 Wheat. 316 and the great decisions of that era. The principle of implied and necessary Federal powers is surely too well settled to be reopened at this late date.

An original copy of this minority document, written by John Marshall and printed as a campaign pamphlet, is entitled, "The Address of the Minority in the Virginia Legislature to the People of that State; containing a Vindication of the Constitutionality of the Alien and Sedition Laws," and will be found in the Library of Congress, catalogued "Class E 327—Book A 22." The discussion of the constitutionality

of the Sedition Law begins on page
ceeds:

> To contend that there does not
> to punish writings coming withi
> tion of this law, would be to asser
> of our nation to preserve its own
> protect themselves from the
> wicked citizens, who incapable o
> selves, are incessantly employed
> means to disturb the public repos
>
> Government is instituted and
> the general happiness and safety
> therefore are interested in its
> and have a right to adopt mea
> security, as well against secret p
> hostility. But government can
> secured, if, by falsehood and malic
> it is to be deprived of the confiden
> tion of the people. It is in vain
> truth will prevail, and that sland
> tected, recoils on the calumniato
> perience of the world, and our own
> prove that a continued course of
> will at length sully the fairest rep
> will throw suspicion on the purc
> Although the calumnies of the f
> discontented may not poison the
> majority of the citizens, yet they
> very considerable number, and pr
> to deeds destructive of the public
> dangerous to the general safety.
> people have a right to prevent; an
> in all the nations of the earth, wh
> are known, some corrective of
> tiousness has been deemed indispen

it is contended, that though this may be theoretically true, such is the peculiar structure of our Government, that this power has either never been confided to, or has been withdrawn from the legislature of the Union. We will examine these positions. The power of making all laws which shall be necessary and proper for carrying into execution all powers vested by the Constitution in the government of the United States, or in any department or office thereof, is by the concluding clause of the eighth section of the first article, expressly delegated to Congress. This clause is admitted to authorize Congress to pass any act for the punishment of those who would resist the execution of the law, because such an act would be incontestably necessary and proper for carrying into execution the powers vested in the Government. If it authorizes the punishment of actual resistance, does it not also authorize the punishment of those acts which are criminal in themselves, and which obviously lead to and prepare resistance? Would it not be strange, if, for the purpose of executing the legitimate powers of the Government, a clause like that which has been cited should be so construed as to permit the passage of laws punishing open resistance, and yet to forbid the passage of laws punishing acts which constitute the germ from which resistance springs? That the Government must look on, and see preparations for resistance which it shall be unable to control, until they shall break out in open force? This would be a unreasonable and improvident construction of the article under consideration.

Then follows a discussion of the dangers arising from seditious libels and an argument derived from the definition of the judicial power of the United States in the second section of the Third Article of the Constitution. The address then proceeds with the following clear and convincing definition of the meaning of the First Amendment:

> That such was the contemporaneous construction of the Constitution is obvious from one of the amendments which have been made to it. The *3d* amendment, which declares that Congress shall make no law abridging the liberty of the press, is a general construction made by all America on the original instrument, admitting its application to the subject. It would have been certainly unnecessary thus to have modified the legislative powers of Congress concerning the press if the power itself does not exist.
>
> But although the original Constitution may be supposed to have enabled the Government to defend itself against false and malicious libels endangering the peace and threatening the tranquillity of the American people, yet *is* is contended the *3d* amendment to that instrument has deprived it of this power.
>
> The amendment is in these words: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press."
>
> In a solemn instrument as is a constitution, words are well weighed and considered before they are adopted. A remarkable di-

versity of expression is not used, unless it be designed to manifest a difference of intention. Congress is prohibited from making any law respecting a religious establishment, but not from making any law respecting the press. When the power of Congress relative to the press is to be limited, the word *respecting* is dropt, and Congress is only restrained from passing any law abridging its liberty. This difference of expression with respect to religion and the press manifests a difference of intention with respect to the power of the national legislature over these subjects, both in the person who drew and in those who adopted this amendment.

All abridgment of the freedom of the press is forbidden, but it is only an abridgment of that freedom which is forbidden. It becomes, then, necessary, in order to determine whether the act in question be unconstitutional or not, to inquire whether it does in fact ABRIDGE the freedom of the press.

The act is believed not to have that operation for two reasons.

1st. A punishment of the licentiousness is not considered as a restriction of the freedom of the press.

2. The act complained of does not punish any writing not before punishable, nor does it inflict a more severe penalty than that to which the same writing was before liable.

1st. If by freedom of the press is meant a perfect exemption from all punishment for whatever may be published, that freedom

> never has and most probably never will exist. It is known to all that the person who writes or publishes a libel may be both sued and indicted and must bear the penalty which the judgment of his country inflicts upon him. It is also known to all that the person who shall libel the government of the State, is for that offense punishable in the like manner. Yet this liability to punishment for slanderous and malicious publications has never been considered as detracting from the liberty of the press. In fact the liberty of the press is a term which has a definite and appropriate signification completely understood. It signifies a liberty to publish, free from previous restraint, anything and everything at the discretion of the printer only, but not the liberty of spreading with impunity false and scandalous slanders, which may destroy the peace and mangle the reputation of an individual or of a community.

III.

First Amendment designed to preserve for the United States certain existing and recognized constitutional liberties and not to create novel principles of law.

One other misconception crept into Mr. Roe's discussion of the First Amendment, illustrated by the sentence on page 25 of his brief:

> It would at least be as probable in the absence of any other evidence that this provision of the Constitution, like others, was adopted to destroy British tyranny rather than to perpetuate it.

This court, however, has repeatedly stated that the early amendments of the Constitution were designed to preserve certain liberties, which had been won and become fixed in the Constitution of England. In *Brown* v. *Walker*, 161 U. S. 591, at page 600, this court said:

> * * * As the object of the first eight amendments to the Constitution was to incorporate into the fundamental law of the land certain principles of natural justice which had become permanently fixed in the jurisprudence of the mother country, the construction given to those principles by the English courts is cogent evidence of what they were designed to secure and of the limitations that should be put upon them.

And, similarly, in *Robertson* v. *Baldwin*, 165 U. S. 275, 281, this court, at page 281, said:

> * * * The law is perfectly well settled that the first ten amendments to the Constitution * * * were not intended to lay down any novel principles of government, but simply to embody certain guaranties and immunities which we had inherited from our English ancestors and which had from time immemorial been subject to certain well-recognized exceptions * * *.

JOHN LORD O'BRIAN,
The Special Assistant to the
Attorney General for War Work.

ALFRED BETTMAN,
Special Assistant to the
Attorney General.

JANUARY, 1919.

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Supreme Court of the United States

OCTOBER TERM, 1918.

No. 714.

EUGENE V. DEBS,
Plaintiff-in-Error,
against
THE UNITED STATES OF AMERICA.

IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF OHIO.

BRIEF OF GILBERT E. ROE, AS AMICUS CURIAE.

GILBERT E. ROE,
As Amicus Curiae,
New York City.

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Supreme Court of the United States

OCTOBER TERM, 1918.

No. 714.

EUGENE V. DEBS,
Plaintiff-in-Error,

against

THE UNITED STATES OF AMERICA.

IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF OHIO.

BRIEF OF GILBERT E. ROE, AS AMICUS CURIAE.

Preliminary Statement.

Upon the consent of the Solicitor General and the attorney for the plaintiff-in-error in the above entitled cause, the court has given me permission to file this brief as *amicus curiae*. I am attorney in the case of Nagler, plaintiff-in-error, against the United States, No. 778, present term of this Court, the record of which has been filed in this Court, involving the construction and constitutionality of Sec. 3, Title I of the Act of June 15, 1917, com-

monly known as the Espionage Law. Said cause will not be reached for argument, however, until after the above entitled action and others involving the same questions are disposed of by this Court. Because of my interest in other litigation involving the same questions as those involved in the above entitled case, I am peculiarly desirous of having called to the attention of this Court those authorities and suggestions which seem to me to bear upon the questions to be decided. I shall not discuss in this brief alleged errors peculiar to the record of this particular case, such as rulings respecting the admissibility of evidence or instructions given or refused. I shall discuss:

(1) The construction of Section 3 of Title I of the Act of June 15, 1917, commonly known as the Espionage Law.

(2) The constitutionality of said Section 3 of said act.

In my discussion of the constitutionality of the act, I shall call particular attention to the history of the constitutional provisions involved, as I take it for granted that counsel of record in this and other similar cases, will present the court decisions supposed to have a bearing upon the question. I have examined the record in the above entitled case sufficiently to determine that it fairly presents the questions I wish to discuss and shall make only such reference to it as may be necessary to illustrate and apply my argument.

ARGUMENT.

POINT I.

Section 3 of Title I of the Act of June 15, 1917, commonly known as the Espionage Law, was never intended to convert into a criminal act such public discussion of public matters as is contained in the articles set forth in the indictment in this case.

Sec. 3 of Title I of the act is as follows:

> "Whoever, when the United States is at war shall
>
> (1) Wilfully make or convey false reports or false statements with intent to interfere with the operation or success of the military or naval forces of the United States or to promote the success of its enemies, and
>
> (2) Whoever, when the United States is at war, shall wilfully cause or attempt to cause insubordination, disloyalty, mutiny, or refusal of duty, in the military or naval forces of the United States, or
>
> (3) Shall wilfully obstruct the recruiting or enlistment service of the United States, to the injury of the service or of the United States shall be punished by a fine of not more than $10,000 or imprisonment for not more than twenty years, or both."

I have inserted the numbers of the paragraphs in the above section in order to bring out more clearly the three distinct matters with which it deals.

The first paragraph of the section deals with the army and navy after they are organized and capable of military and naval *operations*. This paragraph makes it a crime for any one while the United States is at war wilfully to "make or convey false reports or false statements" for a certain purpose, and that purpose is "to interfere with the operation or success of the military or naval forces of the United States" or to promote the success of its enemies. The language *"make or convey"* is significant. What the framers of the Statute clearly had in mind was a situation where our army or navy was organized, disciplined and capable of military or naval operations, and a false statement or false report was conveyed to the army or navy, giving to the commander or commanders false information concerning the strength of the enemy, or some other military fact which would lead the army or navy or some portion of one or the other to engage in an *"operation"* which would not have been engaged in except for the false statement or false report. We may imagine some portion of our military forces in battle array facing the enemy or on the march and a false statement or false report is conveyed to the general in command, which leads him to retreat where he otherwise would have advanced, or to advance when if he had not been misled, he would have retreated.

This is the plain meaning of the paragraph, and the language is admirably chosen to express this meaning and nothing more.

The second paragraph of the section deals with the army in an earlier stage of its development, though it may also apply to the army when completely organized, and it provides that, whoever, when the United States is at war "shall wilfully cause or attempt to cause insubordination, disloyalty, mutiny or refusal of duty, in the military or naval forces of the United States" shall be punished, etc. Here, it is sought to guard the army from the danger, more serious I suppose while it was being organized than later, against mutiny and refusal of duty on the part of the soldiers, large numbers of whom it may be assumed were recently recruited; and here the section goes far and not only penalizes the act which shall cause "insubordination," etc., but it forbids the "attempt" to cause insubordination, disloyalty, mutiny or refusal of duty. This was intended to meet the case of a disloyal soldier or other person who went about in the camps or elsewhere "*wilfully*" that is with criminal purpose, attempting to cause mutiny or refusal of duty on the part of the soldiers, by bribery, falsehoods, intimidation or other unworthy means. The third and last paragraph of the section is the one which deals with the first stage of the army's development, to wit: its recruiting, and provides that whoever, when the United States is at war, etc., "shall wilfully obstruct (not *attempt* to obstruct) the recruiting or enlistment service of the United States to the injury of the service or of the United States, shall be punished," etc. In this last quoted paragraph at least these elements must appear:

(1) Actual obstruction of recruiting or enlistment service.

(2) Such obstruction must be to the injury of the service or of the United States; and

(3) Such obstruction must have been carried out wilfully, that is, not mistakenly, but through the evil purpose of hindering or preventing or retarding the building up of the army.

The framers of this Statute wisely assumed that when the draft law was put into operation and when the enlistment service was at its height, some friends and relatives of potential soldiers might urge and entreat them not to go into the service. So tender, I believe, was the law of these natural feelings of parents and other relatives that it was not intended to penalize such conduct unless it was carried to such length that it could be said to be done "wilfully." Mere *attempts* to obstruct, such as would arise from persuasion or entreaty or argument, in any form, was not penalized or attempted to be penalized. But besides all that, even though there was an actual obstruction, still before there could be a conviction, for violating the law it must be shown that the service, or the United States, suffered some loss or injury thereby. I suppose this provision requiring proof not only of actual obstruction to the recruiting or enlistment service, but also requiring proof that the United States or the service was actually injured thereby, was intended to provide for a case where by entreaty or persuasion, or appeals, some young man was for a time dissuaded from enlisting or responding to his country's call, but later, wiser counsels prevailing, he accepted service and performed well and faithfully whatever duty was required of him.

In such a case neither the United States nor the service was injured, and there could be no conviction under the law.

The foregoing is the plain, common sense meaning of the section of the Statute in question. This meaning is rendered, if possible, more clear, when the entire subject matter of Title I of the act is considered. The entire subject matter of Title I deals with overt acts directed against the military measures of the Government. Criminal statutes will be construed strictly, and all statutes will be so construed as to make them constitutional when this can reasonably be done. Had these elementary canons of construction been applied to the statute under consideration, there would have been little or no reason to complain of any conviction which would have occurred under it. As a matter of fact, owing to the manner in which this statute has been construed and applied, that class of discussion which has been indulged by the people of this country during all our other wars, whereby measures of Government have been freely criticised or condemned, has been almost entirely suppressed during the present war. It is easy to prove by reference to the foreign dispatches appearing in our newspapers published during the present war that while we have been waging this "war for democracy" on the continent of Europe, popular discussion of the war, its causes and its objects, has been suppressed to a greater extent in this country, than in the warring of Europe, and their guarantees of free speech and free press were certainly never supposed to be more solemn and binding than our own. The process by which this came about is most significant. A strong tendency was manifested on the part of the judges

before whom this law first came for construction, to uphold the inherent right of free speech and free press. The first case of which I have any information is that of U. S. vs. Baker and Wilhide in the United States District Court, for the District of Maryland, (247 Fed., 124) decided on July 11, 1917, by Judge Rose. Judge Rose, is admittedly one of the ablest judges of the country. The charge against the defendants in that case was that of making speeches and distributing literature to obstruct the operation of the draft law and discourage enlistment. The pamphlet distributed was the Socialist pamphlet entitled "The Price We Pay." Judge Rose, before the taking of testimony began in the case, said at the outset that he desired to make clear the issue and the only issue before the court. He said:

> "Anyone has a perfect right to any opinion he may see fit to form about any law that is proposed or about any law that is on the statute books. Any man may do anything, in itself legal, to secure the repeal of any law that is on the statute books. To that end he may make *any argument* that commends itself to his reason and judgment against the policy of any particular law, whether it be the law for selective draft or any other. And *he is not answerable for the wisdom of his arguments.* He could not very well be so answerable and put on trial even for the *good faith* of some of them. I am afraid if he could that most of the political orators in every campaign would be put on trial for the good faith of what they said about the other party."

After the testimony was in and in directing a verdict of "not guilty." Judge Rose further said:

> "You may have your own opinions about that circular; I have very strong individual opinions about it and as to the wisdom and fairness of what is said there. But so far as I can see it is principally a circular intended to get people to subscribe to some newspaper and to get recruits for the Socialist Party. *I do not think that we ought to attempt to prosecute people for that kind of thing.*"

Sometime after this decision, however, the same pamphlet came before another Federal Court, and the case was submitted to the jury and the defendants convicted. See

U. S. v. Pierce, 245 Fed. Rep., 878.

In the case last cited, the substance of the pamphlet is set out in the opinion and the learned judge in that case, referring to the pamphlet, said:

> "We have here not only a lurid and exaggerated picture of the horrors of war, possible and impossible, but many false statements calculated to *incite* opposition to the war and opposition to the Government and also *calculated to interfere with the morale of our army,* discourage enlistment, registration and willing service in our armies and encourage desertion."

I think the case next following in point of time the decision of Judge Rose, supra, was the de-

cision by Judge Learned Hand, in MASSES PUBLISHING CO v. PATTEN, 244 Fed., 535. The learned District Judge in that case laid down a rule respecting freedom of discussion, which would have allowed, if applied generally, considerable public discussion of war issues and aims. This case, however, was soon overruled by the Circuit Court of Appeals in MASSES PUBLISHING CO. vs. PATTEN, 246 Fed., 24. But the distinguished judges on the Circuit Court of Appeals bench seem not to have been in harmony concerning the meaning of freedom of speech or of the press.

There are several other decisions by District Judges not reported, in which a stand was made for the constitutional right of free speech and free press. One notable case reported is that of U. S. vs. HALL, 248 Fed., 150. But soon the current of decisions set strongly in favor of the Government in all prosecutions under this law until substantially all hostile criticism of every measure even remotely connected with the war was suppressed through the punishment of those who attempted to indulge in such criticism. I think it will be found, that even the Bulletins issued by the Department of Justice reporting such espionage law cases as it chose to report, will fully sustain the above statement. I note, also, that in the Annual Report of the Attorney General of the United States for the year 1918, reference is made to a number of prosecutions under Sec. 3 of Title I of the Espionage Law, and it is stated that some of these cases are referred to as an illustration of a "dangerous type of propaganda" which was punished.

Whether or not the Federal Congress, with its strictly limited powers, has the right to declare

any discussion of the measures of Government to be *dangerous propaganda* and so suppress it, is the question to which I shall invite the attention of the court under my next point. That it attempted to exercise such power is shown by the amendment of Sec. 3 of Title I of the Espionage Law, passed and approved on May 16, 1918. That amendment, so far as is material, is as follows:

> "Sec. 3. Whoever, when the United States is at war, shall wilfully make or convey false reports or false statements with intent to interfere with the operation or success of the military or naval forces of the United States, or to promote the success of its enemies, or *shall wilfully make or convey false reports or false statements, or say or do anything except by way of bona fide and not disloyal advice to an investor or investors, with intent to obstruct the sale by the United States of bonds or other securities of the United States or the making of loans by or to the United States,* and whoever, when the United States is at war, shall wilfully cause, or attempt to cause, *or incite or attempt to incite,* insubordination, disloyalty, mutiny, or refusal of duty, in the military or naval forces of the United States, or shall wilfully obstruct *or attempt to obstruct* the recruiting or enlistment service of the United States (to the injury of the service or of the United States) *and whoever, when the United States is at war, shall wilfully utter, print, write or publish any disloyal, profane, scurrilous, or abusive language about the form of government of the United States, or the Constitution of*

the United States, or the military or nav
forces of the United States, or the flag of t
United States, or the uniform of the Army
Navy of the United States, or any languag
intended to bring the form of government
the United States, or the Constitution of t
United States, or the military or naval force
of the United States, or the flag of the Unite
States, or the uniform of the Army or Nav
of the United States into contempt, scorn, co
tumely, or disrepute, or shall wilfully utte
print, write or publish any language intende
to incite provoke or encourage resistance t
the United States, or to promote the cause o
its enemies, or shall wilfully display the fla
of any foreign enemy, or shall wilfully by u
terance, writing, printing, publication or la
guage spoken, urge, incite, or advocate any cu
tailment of production in this country of an
thing or things, product or products, neces
sary or essential to the prosecution of th
war in which the United States may be en
gaged, with intent by such curtailment to crip
ple or hinder the United States in the prose
cution of the war, and whoever shall wilfull
advocate, teach, defend, or suggest the doing
of any of the acts or things in this section
enumerated, and whoever shall, by word or ac
support or favor the cause of any country with
which the United States is at war or by word
or act oppose the cause of the United State
therein, shall be punished by a fine of no
more than $10,000 or imprisonment for no
more than twenty years, or both."

The language added by the amendment in the
above quotation is printed in italics, and the clause

inclosed in parenthesis is found in the original act and not included in the amendment.

The above amendment to the Espionage Law is important because it no more abridges freedom of speech and of the press than is done by the conviction of the defendant in the present case, and of other defendants in scores of other cases under the law before it was amended. If such convictions do not violate any constitutional *right*, then the above amendment to the Espionage Law does not violate any constitutional *provision*. For example, under the original Sec. 3 of Title I of the Espionage Law, convictions have been had, upon the following charges, among many similar ones.

Saying in a speech that anyone who enlisted for service in France would be used for fertilizer and that was all he was good for.

O'Hara Case, District of North Dakota, Department Bulletin No 49.

For saying in a speech that the entrance of the United States into the war was unjustified and that Germany's submarine warfare was proper.

Wolfe Case, District of South Dakota, Department Bulletin No. 81.

For writing a letter stating that Germany's agreement to discontinue unrestricted submarine warfare was conditional and not absolute.

Perley Doe Case, District of Colorado, Department Bulletin No. (Report of Attorney General, 1918, page 49).

Criticising, in anger, the financial manage
of the Red Cross and Y. M. C. A. in connec
with the war work.

Nagler Case, Western District of Wi
sin, (Annual Report of Attorney
eral of U. S., 1918, page 52).

The present case, as well as any, illustrates
principle upon which convictions are obtaine
this case, the defendant was convicted for
lishing an article on the 7th day of Febru
1918, in a newspaper criticising the Senate of
United States for not stating that our war
did not include the conquest of territory for
benefit of the allies, and by inference, critici
or disagreeing with the President for appare
giving support, in his address of January 8, 1
to the allies' territorial claims. (See first c
of indictment, page two of record.) The s
jury acquitted the defendant for publishing a
ticle in the same paper on March 7, 1918, ch
ing that our big financial interests and the No
cliffe-Wall Street press was trying to prolong
war in oposition to the President's efforts fo
early and honorable peace. (Second count of
indictment, page 3 of record.) But both co
were submitted to the jury and if either would
tain a conviction, both would do so. Now, I
spectfully but most emphatically submit, that
ting the worst possible construction on the
ticle set forth in the first count of the indictm
and for publishing which, this defendant
been sentenced to four years in prison, no n
can be honestly and intelligently said of it b
juror or anyone else, to sustain the prosecuti

case, than that it contains language which, if brought to the attention of some person whose mind was open to its influence, might have a tendency to make such person disapprove of our war aims, as stated by the President without dissent from the Senate. Whether such approval, if it ever was caused by the article in the mind of this hypothetical person, would then manifest itself by any shrinking from duty or hesitation about complying with any requirement of the law, is a purely psychologic question which no man can answer, for the answer depends entirely upon the mental and moral characteristics of this particular person, whom, we assume, first, might have seen the article, and, secondly, might have been in some manner influenced by it. The fact that the learned trial judge charged the jury that they must be satisfied "that the language not only naturally but necessarily deterred and hindered men from enlisting in the service of the country" (page 77 of the record) does not change the nature of the language used or the purely speculative character of the inquiry concerning the possible effect of the language upon some person who might possibly read it. To say that the language of the article *"necessarily deterred and hindered men from enlisting in the service of the country"* is to permit a jury to exercise powers which will enable it to hang a man any time for a speech or an editorial. If a jury can be permitted to say that the argument in this article necessarily hindered men from enlisting, then it is competent for a jury to find that the article complained of, or some other, necessarily drove men into the ranks of the enemy, or necessarily caused men to commit murder, or any

other crime. The most that any jury or any judge can say about any language of a speech or article in the absence of any evidence that it produced a particular effect, is that it would have a tendency to produce the results complained of, and that is the manner in which the instructions have been given in most of the cases prosecuted under Sec. 3, Title I of the Espionage Law. Now, of course, if this conviction can be upheld because the article has the tendency to produce the result complained of, then Congress can pass a valid law which directly provides that the use of language in a speech or article having the tendency to produce the results complained of, shall constitute a crime. Congress can certainly do directly anything that it can do indirectly, and if it can pass a law under which this defendant can be validly sent to prison for four years because of the publication of the editorial set out in the first count of this indictment, then it can, in specific language, make the publication of that editorial a crime. In other words, if this conviction can be upheld, then Congress can expressly declare that the publication of an article, or the use of language in a speech which has a tendency to influence the mind of any person against enlisting in the army, or doing any other thing which Congress may prescribe, is a crime punishable as the Congress may direct. That such limitation upon public discussion, whether accomplished directly by Congress through an act which frankly declares its purpose, or indirectly by permitting a jury, without evidence, to draw the conclusion that general public discussion of measures of Government cause injury to the United States by obstructing enlist-

ments, is unconstitutional, is the proposition to which I invite the attention of the court.

POINT II.

Section 3, of Title I of the Act of June 15, 1917 (commonly known as the Espionage Law) is unconstitutional, if construed and applied so as to punish any individual for speaking or publishing his opinions on any measures of the government.

The First Amendment to the Constitution proposed to the legislatures of the several states by the First Congress, on the 25th day of September, 1789, provides:

> "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances."

In this brief, I shall consider only the limitation upon the power of *The Congress of the United States* to abridge freedom of speech or of the press. What the states may do in that matter, or what the people themselves might do, are questions quite aside from the present discussion, and in my opinion the hopeless confusion shown by the recent decisions under the Espionage Law, and the absurd results reached in many cases, has arisen by reason of the failure to keep in mind the fundamental limitations upon the power of the Federal Government as expressed in the Constitution.

It is familiar law, of course, that the Federal Government, including the Congress, has no power, except it is one plainly delegated to it by the Constitution. Whenever the Congress of the United States passes a valid law, it must be possible to turn to the Constitution of the United States and find the authority for such law, and if the authority does not exist in the Constitution, the law is void and is no law.

That there might be no question about this, the Tenth Amendment specifically provides:

> "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

The debates in the Constitutional Convention and in the conventions of the several states when the Constitution was up for ratification, show that the rule of constitutional construction, afterwards made famous by Chief Justice Marshall, was anticipated. Hence it was, that in order to protect certain subjects from ever being drawn within the jurisdiction of Congress under the theory of implied powers, some subjects were by the First Ten Amendments removed absolutely from Congressional consideration. Among these are freedom of speech and of the press, peaceable assembly, the right to petition the government, the free exercise of religion, the right to keep and bear arms, freedom from unreasonable searches and seizures, jury trial and many others.

To illustrate: Section 8 of Article I of the Constitution, provides that, "The Congress shall have power to lay and collect taxes, duties, imposts and

exercise." Also, "to borrow money on the credit of the United States." Now, suppose Congress should undertake to lay a very burdensome tax, and one popularly regarded with disfavor, or should propose to borrow money on terms or for a purpose of which the people disapprove. Congress might well say that it was necessary or at least very proper to suppress public condemnation of such policy; nor would it be difficult to conceive of a crisis in the life of the Nation, where the urgency for money was so great and immediate, that the purpose of Congress, highly patriotic and praiseworthy as it might be under the circumstances, would be entirely defeated by the public clamour which could be raised against its action, either before such action crystalizes into law, or afterward.

It is at this point that the First Amendment comes in and provides specifically, that "Congress shall make no law * * * abridging the freedom of speech or of the press." The prohibition is absolute. If Congress cannot borrow money without abridging the freedom of speech or of the press, then the money will not be borrowed; if it cannot lay and collect taxes without abridging freedom of speech or of the press, then the taxes cannot be laid or collected. Again, the Congress is given the power "to declare war; * * * to raise and support armies; * * * to provide and maintain a navy." In order to carry out these express grants of power, it might well be argued that it would be reasonable and necessary and proper to suppress hostile criticism of Congress respecting some or all of these matters during the period of the war. But the framers of the Constitution foresaw this possi-

bility, and the debates, particularly in the Virginia Convention called to ratify the Constitution, shows that they foresaw it, and so it was declared in the First Amendment, that "Congress shall make no law * * * abridging the freedom of speech or of the press," and if, for example, an army cannot be raised without abridging freedom of the press, the army will not be raised, and an army ought not to be raised unless it can be done in spite of every reason that can be urged against it.

In other words, our historic freedom of speech and of the press, is to remain inviolate. It accompanies every act of the Congress of the United States, whether in peace or in war. Whatever express power the Constitution may confer upon the Congress must be exercised by it without abridging freedom of speech or of the press, and if an express power cannot be exercised as efficiently as desired, because of the inability of Congress to abridge freedom of speech or of the press in the slightest degree, then that is a limitation upon the power of Congress, which the Constitution has placed there, and which the Courts must recognize and uphold.

I shall not in this connection, enter upon a discussion of the wisdom of the constitutional provision forbidding Congress ever to abridge freedom of speech or of the press, with the consequent limitation upon the other powers of Congress thereby involved, but it would not be difficult, I think, to prove that of all the provisions of the Constitution, this is the one most calculated to preserve our free institutions to ourselves and to posterity.

Under Point I, I have shown how the majority of the Federal District courts of this country, in

their interpretation of Section 3, Title I of the Espionage Law, and the Congress itself in its amendment of May 16, 1918, to the Espionage Law, has clearly yielded to the temptation under the exigencies of the war to strike down and destroy the free speech and free press clause of the Constitution, in order, as it was believed, that the war making powers of the Government might be more effectively carried into execution. It is not to be expected that the Congress or the courts would declare or admit that the action taken had abridged freedom of speech or of the press, and it is undoubtedly true that there was no purpose either in the Congress or the courts to accomplish that result. But if the breach already made in the wall of constitutional liberty is not speedily and permanently repaired, it will certainly be enlarged as one exigency after another seems to make it necessary, until the whole structure will give way before the assaults of real enemies of constitutional and democratic government. The country needs to be reminded by this Court at the close of the present world war, even as it was reminded at the close of the Civil War in the great Milligan case (71 U. S., 2, 120) that, "The Constitution of the United States is a law for rulers and people, equally in war and peace, and covers with the shield of its protection, all classes of men, at all times, and under all circumstances."

In what I have thus far said, I have assumed that the express denial to Congress in the First Amendment of any power under and circumstances to abridge "the freedom of speech or of the press," protected the people at all times against any interference by Congress with their right to speak

or publish their opinions on any and all measur of government.

If my assumption is correct, then it must fo low that the conviction in the present case and all Espionage Law cases dependent upon like pri ciples, must be set aside, either because the la is unconstitutional or has been erroneously a plied.

I will now proceed to demonstrate the absolu correctness of the assumption I have made.

FREEDOM OF SPEECH AND OF THE PRES DEFINED.

It has never been my good fortune to read a d cision of a court or a brief of counsel which ha undertaken to interpret the free speech and fre press provision of the First Amendment to th Constitution in the light of all those historica facts immediately preceding and following th adoption of that amendment, although those fact show beyond cavil or question exactly what wa understood by the authors of that provision whe it was adopted, and exactly what it was intende to accomplish by its adoption. On the contrary the historical data seems to have been largel overlooked or disregarded, and expressions o opinion of English judges and law writers, whic could have at best only a remote bearing on th question, have been laid hold of by the courts and cited in each succeeding decision through th years, until an interpretation has been given t that provision of the Constitution by many abl courts and law writers, which renders it utterl useless as a guarantee of liberty of any sort what soever.

Almost every decision dealing with the free speech and free press clause of our Constitution, quotes, as though it were authority, Mr. Justice Blackstone's statement that a free press consisted

> "in laying no previous restraint upon publications, and not in freedom from censure of criminal matter when published. Every freeman has an undoubted right to lay what sentiments he pleases before the public, but if he publishes what is improper, mischievous or illegal, he must take the consequences of his own temerity."
>
> Blackstone's Commentaries, Book 4, page 151.

In one form or another, this statement of Blackstone has found its way into our decisions, until it has been cited by many courts and lawyers as a correct interpretation of the free speech and free press clause of our Constitution.

Mr. Justice Backstone died in 1780, about ten years before the First Amendment to the Constitution was adopted. He wrote the last volume of his Commentaries in 1769, about twenty years before the free speech and free press clause of our Constitution was adopted, and before any one had ever thought of framing the Constitution. In the sentence quoted, he was simply dealing with the condition of the press in England, as it had existed since the repeal of the Licensing Act in 1694. Free speech was not involved in the discussion at all, and free press only according to Justice Blackstone's view of what was right and proper in Eng-

land since the repeal of the licensing acts
one hundred years before.

Mr. Justice Blackstone also believed in w
In his Commentaries, he said:

> "To deny the possibility, nay, actual
> ence of witchcraft and sorcery, is at once
> to contradict the revealed will of God in
> ous passages of both the Old and New
> ment, and the thing itself is a truth to
> every nation in the world hath in its
> borne testimony, either by example seen
> well tested, or by prohibitory laws whi
> least supposed the possibility of com
> with evil spirits."

Blackstone's Commentaries, Book 4, C
4, Page 60, Ed. 1860.

Mr. Justice Blackstone's belief in the fortu
condition of the English press after the repe
the licensing acts in 1694, like his belief in w
craft, have a historical interest, but there i
more reason for accepting his beliefs about
than about the other as a measure of liberty
freedom in this country today. Judge Blacks
as the events of his life prove, and as his in
tial critics state, was a conservative of co
vatives; his advancement in life was due as n
to his ability to commend and defend whatever
isted, as it was to the possession of other tal
He "was conservative almost to rigidity" (Step
Dictionary of National Biography, pages 133-1
There is no reason to doubt that whatever
dom the English press had won before the a
tion of our Constitution, as for example the re

of the licensing acts, or rather the expiration of the licensing acts, was intended to be preserved under our Constitution, but it is a strange doctrine that it was to be the measure of the freedom of the press claimed by the Colonies. It would at least be as probable in the absence of any other evidence, that this provision of the Constitution, like others, was adopted to destroy British tyranny. rather than to perpetuate it. It would be strange if our boasted freedom of the press only involved the right to publish a statement without first submitting it to a censor, but with the liability of being executed or imprisoned for life because of the publication. Yet that is all that Blackstone's definition of the freedom of the press amounts to. Under the old English laws against seditious libel and blasphemy, the unfortunate publisher was better off with the censorship than without it. Under the censorship he could at least know in advance what he could not publish, but without it, his first intimation that he had done wrong usually came when he was hailed before some tribunal to be punished for a publication which he had supposed was innocent, and as in some of the provisions of our Espionage Law, the truth was no defense.

A history of the contest for freedom of speech and of the press in England, more extensive than I can undertake to give in this brief, will show that in that country both before and after the repeal of the licensing acts, there were two parties, one contending for absolute freedom of the press, and the other opposed to it.

Mr. Justice Blackstone was one of the distinguished members of this latter class. The same

contest was carried into the Colonies, and i
the views of those who stood for absolute fr
of speech and of the press, *as against any*
by the Federal Government, that finally pre
and was written into the Constitution.

That is what I now proceed to show
historical sources.

1. THE ADDRESS BY THE CONTINEN CONGRESS TO THE INHABITANTS QUEBEC.

The first document to which I call attenti
an address issued by the Continental Congre
October 28, 1774. That Congress, the repres
tive of all the Colonies, voicing their sentin
and expressing their ideas issued a public ad
on the 28th of October, 1774, directed particu
to the inhabitants of Quebec, which set forth
rights and grievances, and among others the
lowing:

> "The last right we shall mention, reg
> the freedom of the press. The importan
> this consists, besides the advancement
> truth, science, morality and arts in gen
> in its diffusion of liberal sentiments on
> administration of government, its ready
> munication of thoughts between subjects,
> its consequential promotion of union an
> them, whereby oppressive officials are sha
> or intimidated into more honourable or
> modes of conducting affairs."

(See *Journal of the Continental*
gress, Vol. 1, page 108, Ed. 1904.)

Note well the language, "whereby oppressive officers are *shamed or intimidated* into more honourable and just modes of conducting affairs." Clearly the Continental Congress believed in a press not only free enough to *shame* public officers for their misconduct, but when necessary, to *threaten* them as well.

2. THE VIRGINIA RESOLUTION OF TOLERATION.

Passing now over a period of ten years, we come to a document of the greatest importance on this subject. In 1784, the House of Delegates at Virginia, had under consideration, a bill providing for the teaching of the Christian religion. This bill was strenuously opposed both by Mr. Jefferson and Mr. Madison, and was not acted upon at that session of the Legislature, but at the next session a bill drafted by Mr. Jefferson was passed in its place, after extended discussion. This bill was passed in 1785, and is found as Chapter 34, Vol. 12 of Hening's Statutes at Large. While it dealt more particularly with religious freedom, it applied to secular freedom as well, for it must always be remembered that the early struggles concerning the freedom of speech and of the press, was largely a contest for the right to express religious sentiments which might be regarded as heretical or unorthodox.

This Act starts with the declaration:

> "Almighty God has created the mind free; that all attempts to influence it by temporal punishments or burdens, or by civil incapaci-

ties, tend only to beget habits of hypocrisy and meanness."

It then proceeds:

"To suffer the civil magistrate to intrude his power into the field of opinion, or to restrain the profession or propagation of principles, on supposition of their ill tendency, is a dangerous fallacy, which at once destroys all liberty, because he, being of course judge of that tendency, will make his opinions the rule of judgment, and approve or condemn the sentiments of others only as they shall square with or differ from his own. *It is time enough for the rightful purpose of civil government for its officers to interfere when principles break out into overt acts against peace and good order.*"

The italicized portion of the above quotation, is a description of freedom of speech and of the press, applicable alike to religious as well as to secular subjects. Thoughts or words or principles were not to be punished by the magistrate, but it was only when an overt act arose out of them, that government could rightfully interfere.

In *Reynolds* vs. *United States,* 98 U. S., 145, at page 163, this Court had occasion to consider this resolution in connection with the religious freedom guaranteed along with freedom of speech and of the press in the First Amendment. Chief Justice Waite, in the opinion in that case, after showing Mr. Jefferson's connection with the resolution, accepts it almost as an authoritative declaration

of the scope and effect of the First Amendment to the Constitution, so far as it relates to religious liberty. He said (page 164):

> "Coming as this does from an acknowledged leader of the advocates of the measure, it may be accepted almost as an authoritative declaration of the scope and effect of the amendment thus secured. Congress was deprived of all legislative power over mere opinion, but was left free to reach *actions* which were in violation of social duties or subversive of good order."

If I can show from equally unimpeachable historical sources, that Mr. Madison and Mr. Jefferson held exactly the same views as to the limitation imposed upon the power of Congress by the free speech and free press clause of the First Amendment, as they did concerning the limitation on the power of Congress imposed by the clause of the said amendment providing for freedom of religion, then we must be entitled to have their views accepted as equally authoritative in both cases. That this was the view of Mr. Madison and Mr. Jefferson, is clearly shown by the historical facts to which I will now refer.

3. THE RESOLUTIONS OF THE VIRGINIA CONVENTION OF 1788.

As pointed out in the *Reynolds case, supra*, Mr. Jefferson was in France at the time the Federal Constitution was adopted, and so did not participate, personally, at least, in the deliberations of the Constitutional Convention. He objected to the Constitution, however, when he saw a draft of it,

because it did not contain a bill of rights. When the Constitution came up for ratification in the Virginia Convention of 1788, Mr. Jefferson was still absent, but the debates in the Convention show that his friends voiced his sentiments respecting the Constitution, and particularly as to his desire that it should contain some guarantee regarding freedom of speech and of the press, and while he was reported to be in favor of adopting the Constitution, he thought it should be done with the understanding that the necessary amendments would be promptly proposed and adopted, and as we all know, that was the policy pursued, which resulted in the adoption of the first ten amendments to the Constitution.

Governor Randolph, in answering the charge of Patrick Henry that the Federal Constitution did not provide for the freedom of the press, said:

> "The liberty of the press is supposed to be a danger. If this were the case, it would produce extreme repugnancy in my mind. If it ever will be suppressed in this country, the liberty of the people will not be far from being sacrificed. Where is the danger of it? He says that every power is given to the general government that is not reserved to the States. Pardon me if I say the converse of the proposition is true. I defy anyone to prove the contrary. Every power not given by this system is left with the States. This being the principle, from what part of the Constitution can the liberty of the press be said to be in danger?"

(See *Debates of Virginia Convention*, 1788, *Vol.* 2, *page* 11.)

Governor Randolph's argument on this point, was of course, unanswerable, if the only fear was that Congress might establish a censorship of the press similar to the English licensing acts. But this was not the danger apprehended. The real danger, as was pointed out in the debates, would arise from the doctrine of implied powers by which freedom of speech or press might be in some manner interfered with, in order more easily or expeditiously to carry into effect some express power given to Congress by the Constitution. The friends of free speech and of free press in the convention, anticipated in substance, the rule of constitutional construction afterwards made famous by Chief Justice Marshall, when he said:

> "Let the end be legitimate; let it be within the scope of the Constitution, and all means which are appropriate, which are adapted to that end, and *which are not prohibited* but which consist with the letter and spirit of the Constitution, are constitutional."
>
> McCullough vs. Maryland, 4 Wheaton, 415, 430.

So it was that the friends of free speech and free press, who thought an express declaration on the subject necessary, were successful, and in the very resolution by which the Constitution was ratified by the Virginia Convention, it is provided:

> "We, the Delegates of the People of Virginia, * * * declare that * * * among other essential rights, the liberty of conscience and of the press cannnot be cancelled, abridged,

restrained or modified by any authority of the United States."

The Virginia Convention also adopted a Bill of Rights which it asked to have submitted as a part of the Constitution, and the 16th Article thereof provided:

> "That the people shall have a right to freedom of speech and of writing and publishing their sentiments; that the freedom of the press is one of the greatest bulwarks of liberty, and ought not to be violated."

Can it be said that the right of the people to freely speak and publish their sentiments would exist, if the Congress of the United States was to have power to punish, by such penalties as it might choose, the speaking and publishing of such sentiments as it might declare interfered with or might interfere with the functions of the Federal Government? Plain as the answer to the above question is on principle, it is not left to inference as appears from the facts to which I now call attention.

4. THE SEDITION LAW OF 1798.

In July, 1798, during the administration of President Adams, the law commonly known as the Sedition Law was passed. The reason commonly assigned for the passage of the law, was the strained relations existing at that time between this country and France, and the popular excitement and unrest incident thereto. So far as here material, that law provided:

> "If any person shall write, print, utter or publish any false or malicious writing against

the Government of the United States, or either House of Congress, or the President, with intent to defame them, or either of them, or to bring them or either of them into contempt or disrepute, or to excite against them or either of them the hatred of the good people of the United States, then such person being thereof convicted before any court of the United States having jurisdiction thereof, shall be punished by a fine not exceeding $2,000 and by imprisonment not exceeding two years."

(Laws of 5th Congress, Chap. 91.)

Whatever likeness or unlikeness this first Sedition Law bears to the present Espionage Law, they have this in common: They were both laws passed by the Federal Congress, and in their operation (according to the interpretation given to the Espionage Law by the majority of the Federal Courts) both operate to protect the acts of the Federal Government, which really means the Administration in power, from hostile criticism and condemnation. While the sedition law of 1798 never came before this Court, it was repudiated as unconstitutional by the people themselves, in a series of Acts, which, though not absolutely binding on this court, certainly must be very persuasive.

5. THE KENTUCKY RESOLUTIONS OF NOVEMBER, 1798.

What are known as the Kentucky resolutions, were prepared by Mr. Jefferson, after consultation with Mr. Madison, and were adopted by the Legislature of Kentucky.

(See Jefferson's letter to James Madison, Nov. 7, 1798, containing draft of Kentucky resolutions, Vol. 4—Jefferson's Complete Works, page 258; see, also, Mr. Jefferson's letter to J. C. Breckenridge, Dec. 11, 1821, Vol. 7—Ford's Compilation of Writings of Thomas Jefferson, page 290).

The Virginia resolutions to be presently noticed, adopted shortly after the Kentucky resolutions, were prepared by Mr. Madison. The Kentucky resolutions so far as here material, were as follows:

"Resolved that it is true as a general principle and is also expressly declared by one of the amendments to the Constitution that 'the powers not delegated to the United States by the Constitution nor prohibited by it to the states are reserved to the states respectively or to the people'; and that no power over the freedom of religion, freedom of speech or freedom of the press being delegated to the United States by the Constitution, nor prohibited by it to the states, all lawful powers respecting the same did of right remain and were reserved to the states or to the people; that thus was manifested their determination to retain to themselves the right of judging how far the licentiousness of speech and of the press may be abridged without lessening their useful freedom, and how far those abuses which cannot be separated from their use, should be tolerated rather than the use be destroyed; and thus also they guarded against all abridge-

ment by the United States of the freedom of religious opinions and exercises, and retained to themselves the right of protecting the same, as this state, by a law passed on the general demand of its citizens, had already protected them from all human restraint or interference; and that in addition to this general principle and express declaration another and more special provision has been made by one of the amendments to the Constitution, which expressly declares, 'that Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press,' thereby guarding in the same sentence and under the same words the freedom of religion, of speech and of the press, insomuch, that whatever violates either, throws down the sanctuary which covers the others, and that libels, falsehoods and defamations, equally with heresy and false religion, are withheld from the cognizance of federal tribunals. That, therefore, the act of the Congress of the United States passed on the 14th day of July, 1798, entitled 'An Act in addition to the act for the punishment of certain crimes against the United States,' which does abridge the freedom of the press, is not law, but is altogether void and of no effect" (Vol. 7—Ford's Compilation of the Writings of Thomas Jefferson, page 294).

The test is not whether the matter is true or false, or the motive good or bad. Intention has nothing to do with it. Congress can no more con-

trol the discussion appearing in the press, than can the sermon preached in the church.

6. THE VIRGINIA RESOLUTIONS OF D CEMBER 21, 1798, AND THE VIRGINIA R PORT OF 1799-1800.

A few days after the passage of the Kentuc resolution quoted above, the Virginia House of D egates passed a resolution of similar import, b which also contained much other matter and so language which was construed as a threat of sece sion if the Federal Government continued wh was looked upon as a policy of usurpation of po er. This called forth some criticism from oth states. Subsequently, and in 1799 and in 1800, t Virginia House of Delegates in a report, reviewe the criticisms that had been passed upon the re olutions of December, 1798, and for the purpose this discussion, I refer to the resolutions and r port together.

(See publication of Debates and Proce ings on said resolutions and report, W. Randolph, Richmond, Va., 1850).

I quote from the above report, pages 219-220:

"2. The next point which the resolution r quires to be proved, is, that the power ov the press exercised by the sedition-act, is po itively forbidden by one of the amendments the Constitution.

The amendment stands in these words"

(Here the First Amendment is quoted

"In the attempts to vindicate the 'seditio act,' it has been contended,

1. That the 'freedom of the press' is to be determined by the meaning of these terms in the common law. 2. That the article supposes the power over the press to be in Congress, and prohibits them only from *abridging* the freedom allowed to it by the common law.

Although it will be shown, in examining the second of these positions, that the amendment is a denial to Congress of all power over the press, it may not be useless to make the following observations on the first of them.

It is deemed to be a sound opinion, that the sedition act, in its definition of some of the crimes created, is an abridgment of the freedom of publication, recognised by principles of the common law in England.

The freedom of the press under the common law is, in the defenses of the sedition-act, made to consist in an exemption from all *previous* restraint on printed publications, by persons authorized to inspect and prohibit them. It appears to the committee, that this idea of the fredom of the press, can never be admitted to be the American idea of the freedom of it; since a law inflicting penalties on printed publications, would have a similar effect with a law authorizing a previous restraint on them. It would seem a mockery to say, that no law should be passed, preventing publications from being made, but that laws might be passed for punishing them in case they should be made.

The essential difference between the British Government, and the American constitutions, will place this subject in the clearest light.

In the British government, the dan
encroachments on the rights of the peo
understood to be confined to the ex
magistrate. The representatives of the
in the legislature, are not only exempt
selves, from distrust, but are consider
sufficient guardians of the rights of thei
stituents against the danger from the
tive. Hence it is a principle, that the
ment is unlimited in its power; or, in
own language, is omnipotent. Hence, t
the ramparts for protecting the rights
people, such as their magna charta, the
of rights, &c., are not reared against th
liament, but against the royal prerog
They are merely legislative precau
against executive usurpations. Under
a government as this, an exemption o
press from previous restraint by licenser
pointed by the king, is all the freedom
can be secured to it.

In the United States, the case is altog
different. The people, not the govern
possess the absolute sovereignty. The le
ture, no less than the executive, is under
tations of power. Encroachments are re
ed as possible from the one, as well as
the other. Hence, in the United States
great and essential rights of the people a
cured against legislative, as well as ag
executive ambition. They are secured, n
laws paramount to prerogative, but by
stitutions paramount to laws. This sec
of the freedom of the press requires, th
should be exempt, not only from previou

straint by the executive, as in Great Britain, but from legislative restraint also; and this exemption, to be effectual, must be an exemption not only from the previous inspection of licensers, *but from the subsequent penalty of laws.*

The state of the press, therefore, under the common law, cannot, in this point of view, be the standard of its freedom in the United States."

The report then proceeds at great length to show the condition of the press in England and in America, prior to the adoption of the Constitution, and points out that in this country far greater freedom had ever been exercised "in canvassing the merits and measures of public men of every description" than in England, and that such freedom had been in no way confined to the limits of the common law. It further shows that whatever power existed over the press to punish its abuse or licentiousness, rested with the States and could be exercised by the States alone, and that when the Federal Congress by express declaration in the Constitution was prohibited from abridging freedom of speech or of the press, it was meant to deprive Congress of all power on the subject, precisely as it was meant by the same amendment to prevent Congress from making any law interfering with the free exercise of religion. The report then recalls that when the amendments were presented to the First Congress by Mr. Madison, they were introduced with the statement, among others that they were intended to prevent "abuse of its powers" on the part of the Federal Government. I quote again from the report (page 224):

"Is then the federal government, it
asked, destitute of every authority
straining the licentiousness of the pre
for shielding itself against the libell
tacks which may be made on those v
minister it?

The Constitution alone can answ
question. If no such power be express
gated, and it be not both necessa
proper to carry into execution an
power; *above all, if it be expressly fo*
by a declaratory amendment to the C
tion, the answer must be that the
Government is destitute of all such auth

The report then proceeds with an argum
long to quote, to demonstrate the absolu
rectness of the position taken. I respectfu
vite the Court's attention to the entire ar
and report.

7. ALL PERSONS CONVICTED UNDE
SEDITION ACT, WERE PARDONED,
ALL FINES COLLECTED WERE RETU
ON THE GROUND THAT THE LAW WA
CONSTITUTIONAL AND VOID.

The above stated fact is well known, and
not dwell upon it further than to quote
statement from Mr. Jefferson, and the res
of the Congress which completed the return
fines imposed under the law. Mr. Jeffer
writing to Mrs. Adams, June 22, 1804, in
to criticisms concerning his action in par
all persons convicted under the Seditio
said:

"I discharged every person under punishment or prosecution under the Sedition Law, because I considered and now consider that law to be a nullity, as absolute and as palpable as if Congress had ordered us to fall down and worship a golden image; and that it was as much my duty to arrest its execution in every stage, as it would have been to have rescued from the fiery furnace those who should have been cast into it for refusing to worship their image. It was accordingly done in every instance without asking what the offenders had done or against whom they had offended, but whether the pains they were suffering were inflicted under the pretended Sedition-Law."

(Vol. 8, Ford's Writings of Jefferson, page 309.)

The last record I find of the return by Congress of the fines collected under the Sedition Law, is the case of Dr. Cooper. On January 29, 1850, Mr. James Thompson from the Committee on the Judiciary, made a report setting forth the conviction of Dr. Cooper under the Sedition Law, the fact of his death, and the appointment of his executor, and that in the opinion of the Committee, the Alien and Sedition Law,

"was unconstitutional, null and void, and passed under the exercise of undelegated power by Congress; that the fine so levied ought to be refunded to the heirs and legal representatives of said Dr. Cooper with interest thereon until paid."

The report further sets forth that similar action had been taken in a number of other cases. The resolution passed the house March 15, 1850, the Senate July 18, 1850, and was approved. (See House Journal, 1st Session, 31st Congress, 1849-50, page 1141; also House Journal, 1st Session, 31st Congress, page 675.)

One other fact remains to be stated in this connection. The report of the Virginia House of Delegates of 1799-1800, from which I before quoted so liberally, was made a campaign document in Mr. Jefferson's campaign for the presidency at that time. By resolution of the House of Delegates of Virginia, of Jan. 20, 1800, five thousand copies of the report were ordered printed for circulation, and there were a number of reprints of the report in New York and elsewhere for use in the campaign. Mr. Jefferson's election by the people and the overwhelming defeat of his opponents was a clear declaration by the people at that time that they approved his views as to the unconstitutionality of the old edition Law, and the action of Congress, session after session, refunding fines paid under it down to 1850, shows clearly that at least until that date, the sentiments of the people on the subject was unchanged.

8. DISCUSSION BY PROFESSOR TUCKER IN NOTE TO BLACKSTONE'S COMMENTARIES.

In 1803 an edition of Blackstone's Commentaries was published in Philadelphia and edited by Prof. St. George Tucker. Prof. Tucker was, for a time, professor of law in the College of William and Mary, and judge of the General Court of Vir-

ginia. In 1804, he was appointed a judge of the Virginia Court of Appeals and in 1813, Judge of the United States District Court of Virginia. The note to which I refer is found as "Note G" to the above edition of Blackstone's Commentaries. The time and circumstances under which the note was written, give it peculiar significance historically, and the learning which it manifests, makes it authoritative for all time. I shall quote only a few paragraphs from it, but the whole note should be carefully studied by anyone desiring to understand the origin and significance of the first amendment. In opening the discussion of the free speech and free press clause of the Constitution, he says:

> "Liberty of speech and of discussion in all speculative matters, consists in the absolute and uncontrollable right of speaking, writing, and publishing, our opinions concerning any subject, whether religious, philosophical, or political, and of inquiring into and, examining the nature of truth, whether moral or metaphysical; the expediency or inexpediency of all public measures, with their tendency and probable effect; the conduct of public men, and generally every other subject, without restraint, except as to the injury of any other individual, in his person, property, or good name."

The foregoing, as Prof. Tucker shows, and as the documents I have hereinbefore quoted also show, constituted the conception of free speech embodied in the first amendment.

Referring to the licensing acts of England, he says:

> "In 1694, the parliament refused to continue these prohibitions any longer, and thereby, according to De Lolme, established the freedom of the press in England. But although this negative establishment may satisfy the subjects of England, the people of America have not thought proper to suffer the freedom of speech, and of the press to rest upon such an uncertain foundation, as the will and pleasure of the government."

He then proceeds with the historical discussion to show that in this country, at least, freedom of speech and of the press meant absolute freedom for the discussion of measures of government. In case of injury to *private* reputations, the action for libel or slander, of course, was always open. I quote again:

> "This security of the freedom of the press requires, that it should be exempt, not only from previous restraint by the executive, as in Great Britain; but from legislative restraint also; and this exemption, to be effectual, must be an exemption, not only from the previous inspection of licencers, *but from the subsequent penalty of laws.*"

After stating the argument to show that the first amendment was intended to deprive the Congress of any power over the press, it is said:

> "That under any other construction of the amendment relating to the press, than that it declared the press to be wholly exempt from the power of Congress * * * the amendment

> could neither be said to correspond with the desire expressed by a number of the states, nor be calculated to extend the ground of public confidence in the government."

In closing his discussion, Prof. Tucker defines free press as follows:

> *"Every individual, certainly, has a right to speak or publish, his sentiments on the measures of government; to do this without restraint, control, or fear of punishment for so doing, is that which constitutes the genuine freedom of the press."*

As to the power of Congress in the matter, he further says:

> "It was therefore made a fundamental article of the federal compact, that no such power (legislating respecting freedom of speech and of the press) should be exercised, or claimed by the federal government; leaving it to the state governments to exercise such jurisdiction and control over the subject, as their several constitutions and laws permit."

In Gulf, etc., vs. Ellis, 165 U. S., 160, this court said:

> "It is always safe to read the letter of the Constitution in the spirit of the Declaration of Independence. No duty rests more imperatively upon the courts than the enforcement of those constitutional provisions intended to secure the equality of right which is the foundation of free government."

The Declaration of Independence provides that "whenever any form of government becomes destructive of these ends, *it is the right of the people to alter or abolish it.*" Clearly, freedom of speech and of the press meant to the Fathers of the Constitution the right to discuss every act of the government, whether to praise, condemn or threaten. It would be a simple matter to show, if space permitted, that in every war in which this country has been engaged, the people discussed with absolute freedom, and without attempt to impose any penalty by the federal government, every feature of the war, its causes, the manner of conducting it, its proper objects and its improper ones, and they freely criticised and condemned the President and the Congress for their acts in conducting these wars. For the first time in all our history, this constitutional right has been denied and the federal government has virtually silenced all critical or hostile discussion of war policies. It matters not in what form this was accomplished, *the fact* remains that it has been done and it is with that fact that people of this country are concerned. It is that fact which calls upon this court to re-establish the faith of the people of this country in their constitution and its guarantees of free speech and free press. I am aware that it is not for the court to consider the policy of its decisions but only to truthfully interpret the constitution, but I have no hesitation in saying that no victory won by our army, in this war, and no success which our diplomacy may obtain, will arouse the patriotism and loyalty of the people of this country, as will the declaration from this court that the Constitution of the United States protects the people everywhere in their traditional rights to freely speak and pub-

lish their sentiments, and that the Congress of the United States cannot by any device interfere with that right.

Unless I am right in the contentions made in this brief, unless as Professor Tucker says, and as Jefferson, Madison and the other men of that day responsible for this amendment declared, "freedom of the press" means that every individual *"has a right to speak or publish his sentiments on the measures of government; to do this without restraint, control or fear of punishment for so doing,"* then the free speech and free press clause of the Consttution is *absolutely valueless.* Today, the railroads are being operated and controlled by the Federal Government. The post office is at all times so operated and controlled. Suppose Congress should pass a law providing that whoever shall wilfully make or convey false reports or false statements with intent to interfere with the operation or success of the railroads while controlled by the government, or of the post office or post roads, or whoever shall wilfully cause or attempt to cause insubordination or refusal of duty on the part of the railway employees or the postal employees, or shall wilfully obstruct the recruiting or employment by the United States of men for the postal service, or for the railroads, shall be punished by a fine of not more than $10,000 or by imprisonment for not more than twenty years, or by both. If Section 3 of Title I of the Espionage Law is constitutional, then a law such as I have above suggested is constitutional. If Section 3 of Title I of the Espionage Law prevents general public discussion of the war, its causes and objects, its wisdom or its folly, because a jury is allowed to find that such discussion is with the specific *intent* prohibited by the Espionage Law, then similarly

a discussion of the causes and effects of railr
operation by the government, its wisdom or
folly, can in the same way and by the same dev
be suppressed. Just as soon as a jury is permit
to penalize public discussion of the measu
of government, because of the *intent* which
jury may find animated the discussion, or
results which the jury is permitted to find (in
absence of all evidence of any specific result), su
discussion caused, then the constitutional gu
antee of free speech and free press is wiped o
If the war power of Congress can be used to p
vent discussion of war, then the power of Congr
to coin money can be used to suppress discuss
of the currency, and so on with every other
the express powers of Congress. Once this co
says that public discussion of the measures
government can be punished because of any *int*
which a jury may find caused the discussion,
because of any result which a jury may think w
follow such discussion, then the free speech a
free press of the Constitution is destroyed. T
same device, the same machinery can be employ
in the same manner to suppress discussion up
all measures of government.

Once the vicious principle above stated is a
mitted, there is no place to stop, no place to dra
the line. As good reasons will be put forward f
an Espionage Law in peace as can be put forwa
in time of war. In fact, such a law will be justifi
in time of peace, as necessary to prevent the
citement by licentious discussion, which might le
to war.

The court has but to read the speeches of We
ster, of Clay, of Calhoun, of Sumner, of Linco
and other patriots, whose names are inseparab

connected with the history of this country's achievements, to see that no consideration of interference with military or naval operations or the discipline of the army, or the recruiting of the army, ever deterred them for a moment from condemning in unmeasured terms, not only the war policies of the government, but the right and justice of the government in engaging in the war then under discussion. The speeches of these men were made sometimes in Congress, often on the public platforms, and during the most critical periods of the wars discussed. Read the Democratic platform of 1864, upon which George B. McClellan was a candidate for the presidency, and compare it with anything that the Socialists have said during the present war. Read DuParcq's Life of Lloyd George, and compare the ghastly charges which he made against his own government in its conduct of the Boer War, and made in the very height of that war, with the wildest or most foolish things that anyone has said concerning the present war.

It is no answer to say that there was no Espionage Law in this country during our other wars. It was universally believed at that time, that the freedom of speech and of the press, guaranteed by the Constitution, protected and justified such discussion—nay, made it a duty on the part of those who believed that their government was wrong in its war policies.

In this imperfect and most hastily prepared brief, I have been able only to suggest the sources of information where the real meaning, scope and purpose of the First Amendment will be found, and I shall be repaid for the labor of preparing it, if it proves to be even of some small service in guiding the court to these sources of information.

POINT III.

Section 3 of Title I of the Act June 15, 1917 (commonly known the Espionage Law), is unconsti tional, as it has been construed a applied, in that it violates the fi and sixth amendments to the con tution.

I do not find from the record in the present c that the above objection was specifically taken. will doubtless appear, however, in many of cases coming before this court involving Sectio of Title I of the Espionage Law and I merely r to it. The first element of "*due process of law*" course, is that there shall be a "*law.*" It is a miliar maxim that where the law is uncert there is no law (Black's Law Dictionary, p 1181). As Mr. Justice Brewer said in *Washing & Northwestern R. R. Co.* vs. *Day,* 35 Fed., 8 876:

> "No penal law can be sustained unless mandates are so clearly expressed that ordinary person can determine in adva what he may and what he may not do un it."

The right to "be informed of the nature cause of the accusation," requires that:

> "In a criminal statute, the elements con tuting the offense must be so clearly sta and defined as to reasonably admit of

one construction. Otherwise there would be lack of uniformity in its enforcement."

U. S. vs. Capitol Traction Co., 34 App. Cases, Dist. Col., 592, 598.

In the case last cited, it is also said:

"The dividing line between what is lawful and unlawful must not be left to conjecture. The citizen cannot be held to answer charges based upon penal statutes whose mandates are so uncertain that they will reasonably admit of different constructions. A criminal statute cannot rest upon an uncertain foundation. The crime and the elements constituting it, must be so clearly expressed, that the ordinary person can intelligently choose in advance what course it is lawful for him to pursue. Penal statutes prohibiting the doing of certain things, and providing a punishment for a violation, should not admit of such double meaning that the citizen may act upon one conception and the courts upon another."

See also:

Czarra vs. Board of Medical Supervisors, 25 App. Cases, Dist. Col., 443.
U. S. vs. Reese et al., 92 U. S., 214.

Respectfully submitted,

GILBERT E. ROE,
As *Amicus Curiae.*

27641-

SUPREME COURT OF THE UNITED STATES.

No. 714.—October Term, 1918.

Eugene V. Debs, Plaintiff in Error, *vs.* The United States of America.	In Error to the District Court of the United States for the Northern District of Ohio.

[March 10, 1919.]

Mr. Justice Holmes delivered the opinion of the Court.

This is an indictment under the Espionage Act of June 15, 1917, c. 30, § 3, as amended by the Act of May 16, 1918, c. 75, § 1, 40 Stat. —. It has been cut down to two counts, originally the third and fourth. The former of these alleges that on or about June 16, 1918, at Canton, Ohio, the defendant caused and incited and attempted to cause and incite insubordination, disloyalty, mutiny and refusal of duty in the military and naval forces of the United States and with intent so to do delivered, to an assembly of people, a public speech, set forth. The fourth count alleges that he obstructed and attempted to obstruct the recruiting and enlistment service of the United States and to that end and with that intent delivered the same speech, again set forth. There was a demurrer to the indictment on the ground that the statute is unconstitutional as interfering with free speech, contrary to the First Amendment, and to the several counts as insufficiently stating the supposed offence. This was overruled, subject to exception. There were other exceptions to the admission of evidence with which we shall deal. The defendant was found guilty and was sentenced to ten years' imprisonment on each of the two counts, the punishment to run concurrently on both.

The main theme of the speech was socialism, its growth, and a prophecy of its ultimate success With that we have nothing to do, but if a part or the manifest intent of the more general utterances was to encourage those present to obstruct the recruiting service and if in passages such encouragement was directly given, the immunity of the general theme may not be enough to protect the speech. The speaker began by saying that he had just returned

from a visit to the workhouse in the neighborhood where three of their most loyal comrades were paying the penalty for their devotion to the working class—these being Wagenknecht, Baker and Ruthenberg, who had been convicted of aiding and abetting another in failing to register for the draft. *Ruthenberg* v. *United States*, 245 U. S. 480. He said that he had to be prudent and might not be able to say all that he thought, thus intimating to his hearers that they might infer that he meant more, but he did say that those persons were paying the penalty for standing erect and for seeking to pave the way to better conditions for all mankind. Later he added further eulogies and said that he was proud of them. He then expressed opposition to Prussian militarism in a way that naturally might have been thought to be intended to include the mode of proceeding in the United States.

After considerable discourse that it is unnecessary to follow, he took up the case of Kate Richards O'Hare, convicted of obstructing the enlistment service, praised her for her loyalty to socialism and otherwise, and said that she was convicted on false testimony, under a ruling that would seem incredible to him if he had not had some experience with a Federal Court. We mention this passage simply for its connection with evidence put in at the trial. The defendant spoke of other cases, and then, after dealing with Russia, said that the master class has always declared the war and the subject class has always fought the battles—that the subject class has had nothing to gain and all to lose, including their lives; that the working class, who furnish the corpses, have never yet had a voice in declaring war and have never yet had a voice in declaring peace. 'You have your lives to lose; you certainly ought to have the right to declare war if you consider a war necessary.' The defendant next mentioned Rose Pastor Stokes, convicted of attempting to cause insubordination and refusal of duty in the military forces of the United States and obstructing the recruiting service. He said that she went out to render her service to the cause in this day of crises, and they sent her to the penitentiary for ten years; that she had said no more than the speaker had said that afternoon; that if she was guilty so was he, and that he would not be cowardly enough to plead his innocence; but that her message that opened the eyes of the people must be suppressed, and so after a mock trial before a packed jury and a corporation tool on the bench, she was sent to the penitentiary for ten years.

There followed personal experiences and illustrations of the growth of socialism, a glorification of minorities, and a prophecy of the success of the international socialist crusade, with the interjection that "you need to know that you are fit for something better than slavery and cannon fodder." The rest of the discourse had only the indirect though not necessarily ineffective bearing on the offences alleged that is to be found in the usual contrasts between capitalists and laboring men, sneers at the advice to cultivate war gardens, attribution to plutocrats of the high price of coal, &c., with the implication running through it all that the working men are not concerned in the war, and a final exhortation "Don't worry about the charge of treason to your masters; but be concerned about the treason that involves yourselves." The defendant addressed the jury himself, and while contending that his speech did not warrant the charges said "I have been accused of obstructing the war. I admit it. Gentlemen, I abhor war. I would oppose the war if I stood alone." The statement was not necessary to warrant the jury in finding that one purpose of the speech, whether incidental or not does not matter, was to oppose not only war in general but this war, and that the opposition was so expressed that its natural and intended effect would be to obstruct recruiting. If that was intended and if, in all the circumstances, that would be its probable effect, it would not be protected by reason of its being part of a general program and expressions of a general and conscientious belief.

The chief defences upon which the defendant seemed willing to rely were the denial that we have dealt with and that based upon the First Amendment to the Constitution, disposed of in *Schenck* v. *United States*, *ante*. His counsel questioned the sufficiency of the indictment. It is sufficient in form. *Frohwerk* v. *United States*, *ante*. The most important question that remains is raised by the admission in evidence of the record of the conviction of Ruthenberg, Wagenknecht and Baker, Rose Pastor Stokes, and Kate Richards O'Hare. The defendant purported to understand the grounds on which these persons were imprisoned and it was proper to show what those grounds were in order to show what he was talking about, to explain the true import of his expression of sympathy and to throw light on the intent of the address, so far as the present matter is concerned.

There was introduced also an 'Anti-war Proclamation and Program' adopted at St. Louis in April, 1917, coupled with testimony that about an hour before his speech the defendant had stated that he approved of that platform in spirit and in substance. The defendant referred to it in his address to the jury, seemingly with satisfaction and willingness that it should be considered in evidence. But his counsel objected and has argued against its admissibility, at some length. This document contained the usual suggestion that capitalism was the cause of the war and that our entrance into it 'was instigated by the predatory capitalists in the United States.' It alleged that the war of the United States against Germany could not "be justified even on the plea that it is a war in defence of American rights or American 'honor'." It said "We brand the declaration of war by our Government as a crime against the people of the United States and against the nations of the world. In all modern history there has been no war more unjustifiable than the war in which we are about to engage." Its first recommendation was, "continuous, active, and public opposition to the war, through demonstrations, mass petitions, and all other means within our power." Evidence that the defendant accepted this view and this declaration of his duties at the time that he made his speech is evidence that if in that speech he used words tending to obstruct the recruiting service he meant that they should have that effect. The principle is too well established and too manifestly good sense to need citation of the books. We should add that the jury were most carefully instructed that they could not find the defendant guilty for advocacy of any of his opinions unless the words used had as their natural tendency and reasonably probable effect to obstruct the recruiting service, &c., and unless the defendant had the specific intent to do so in his mind.

Without going into further particulars we are of opinion that the verdict on the fourth count, for obstructing and attempting to obstruct the recruiting service of the United States, must be sustained. Therefore it is less important to consider whether that upon the third count, for causing and attempting to cause insubordination, &c., in the military and naval forces, is equally impregnable. The jury were instructed that for the purposes of the statute the persons designated by the Act of May 18, 1917, registered and enrolled under it, and thus subject to be called into

the active service, were a part of the military forces of the United States. The Government presents a strong argument from the history of the statutes that the instruction was correct and in accordance with established legislative usage. We see no sufficient reason for differing from the conclusion but think it unnecessary to discuss the question in detail.

Judgment affirmed.

A true copy.

Test:

Clerk Supreme Court, U. S.